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Supreme Court, U.S.
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No. _____

In The

UNITED STATES SUPREME COURT

Vincent Michael Ventimiglia,
Debbie Ventimiglia,
N.V., *and,* J.V., *Minors, by*
Vincent Michael Ventimiglia,

Petitioners,

vs.

St. Louis, C.O.G., Inc., *d/b/a, Twin Rivers Worship Center;*
T. Bryan Cutshall, *Incorporator, pastor, and C.E.O., of T.R.W.C.; et al.*

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE 8TH CIRCUIT EASTERN DISTRICT OF MISSOURI

PETITION FOR WRIT OF CERTIORARI

In Propria Personia:
Vincent M. Ventimiglia,
Debbie Ventimiglia,
N.V., and, J.V., *minors*
5817 Runnymede Place
Imperial, Missouri 63052
314-780-2256, 636-287-1487

QUESTIONS PRESENTED

I. Whether the United States District Court, and the Ct. of Appeals, 8th Circuit, of the Eastern District of Missouri, usurped the Constitutional rights of the Ventimiglia family when these two courts created, and proceeded, with an Unconstitutional Standard, inconsistent with the United States Supreme Court precedence of, not allowing, or forcing inappropriate heightened legal standards upon pro se litigants, wherein, the Ventimiglia family has been denied meaningful access to state courts, and suffered great and substantial prejudice, manifest injustice, and denied the full, and complete, benefits guaranteed to them by the Constitution of the United States?

II. Whether both, the District Court, and the Court of Appeals for the 8th Circuit E.D.Mo., unlawfully applied the " *Prisoner Litigation Act* " procedures against the Ventimiglia family without any authority of law, whatsoever, violating clear precedence of this Court and causing a outrageous, manifest injustice to the Ventimiglias?

III. Whether the District Court unfairly, and wrongly denied the Ventimiglia family Preliminary and Permanent Injunction, and Declaratory Judgment, against State Judge Carolyn C. Whittington's Administrative Order, which, among other harassments, caused, Mr. Ventimiglia to be denied access to the state court house one day, in a continued, harassment to Mr. Ventimiglia and his witnesses,

from the court security. There was a clear and convincing threshold of facts, and evidence showing irreparable harm to petitioner, Mr. Ventimiglia, supporting the T.R.O., Preliminary, and Permanent Injunctions, and Declaratory Judgment, before the Federal Court, that is still present, to this very day, creating a gross, fundamental miscarriage of justice against Mr. Ventimiglia, and against precedence of this Court, and other federal jurisdictions?

IV. If, U.S. District Judge Perry was without jurisdiction to dismiss petitioners case, when petitioners filed timely, valid motions, with affidavits, to disqualify her, for being highly prejudicial, and biased towards petitioners, therefore making Judge Perry's actions, acts of treason, *with no jurisdiction*, against the U.S. Constitution, by totally denying petitioners due process of law and equal protection of the laws, contrary to clear legal standards, set by this Court, and followed, by other surrounding, federal courts?

LIST OF PARTIES

1. Vincent Michael Ventimiglia,
Debbie Ventimiglia,
N.V., *and,* J.V., *Minors, by*
Vincent Michael Ventimiglia,
St. Louis, C.O.G., Inc., *d/b/a, Twin River Worship Center;*

T. Bryan Cutshall, *Incorporator, pastor,*

and C.E.O., of T.R.W.C.;
Judge Carolyn C. Whittington,
Presiding Judge 21st Judicial Circuit, Div. 7;
Judge Michael T. Jamison, *Div. 10, 21st Judicial Circuit;*
Judge John F. Kintz, *Div. 5, 21st Judicial Circuit;*
Atty. Daniel G. Tobben,
Atty. Jennine Adamek Moore,
David J.Haynes, *and,* **Carl Whitaker**,
incorporators of T.R.W.C.,
Terry Jones, *Registered Agent, and Atty. of T.R.W.C.;*
Norman McFall, *Business agent, T.R.W.C.,*

Attorneys for respondent parties;

Christopher J. Quinn
P.O.BOX 861
St. Louis, MO. 63188;

Russell Watters, Jennine Adamek Moore, Kenneth Goleaner,
1010 Market St.
20th floor
St. Louis, MO. 63102;

Daniel G. Tobben, Kevin Behrndt,
7701 Forsyth
Suite 200
Clayton, MO. 63105.

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II. This Court should grant this writ of Certiorari because; both, the District Court, and the 8th Circuit Ct. of Appeals, unlawfully, applied the " Prisoner Litigation Act Procedures," against the Ventimiglias, without authority of law, of this Court's, and the surrounding Federal jurisdiction's. Totally, out of touch with U.S.S.Ct. rulings, and laws.....10-11

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT EASTERN DISTRICT OF MISSOURI

Petitioner respectfully prays that a Writ of Certiorari, issue to review the judgment below.

OPINIONS BELOW

The *Motion for Rehearing* of the U. S. Ct. of Appeals, denied, *June 22, 2009*, is **Appendix #1**.

The *opinion of the United States Court of Appeals*, appears at **Appendix #2** to the petition and is unreported; And, The *opinion of the United States District Court* appears at **Appendix #3** to the petition and is unreported, *dismissal, 1/5/2009*.

The *orders of the U.S. District Court, Eastern District of Missouri*, denying a F.R.C.P. Rule 59(e) Motion to Alter, or Amend the Judgment, was denied January 14, 2009. **Appendix #4.**

The *Order of Dismissal* was issued on Jan. 5, 2009. **Appendix #5.**

The *judgment issued* by the U.S. District Court, Jan. 5th, 2009, denying a *Motion to Disqualify the District Judge, Motion to Give Facts, Findings, and Conclusions of Laws*, partly, with prejudice, and partly, without prejudice. **Appendix #6.** (Memorandum, and Order).

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On Sept. 10, 2008, the Court granted, in part, service upon Whitaker, McFall, & Haynes. **App. #14.**

On July 21, *and*, 29, 2009, the Ct. of Appeals denied petitioners, motion for facts, findings, and conclusions of laws, **Appendix #15, and, 15B.**

JURISDICTION

The date on which the United States Court of Appeals decided the case was, **May 18th, 2009**. **Appendix #2**.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: **June 22nd, 2009**, and a copy of the order denying rehearing appears at **Appendix #1**.

The jurisdiction of this Court is invoked under 28 U.S.C.§ 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution:

1st Amendment; "*...not limit the right to petition the government for a redress of grievances.*"

5th Amendment;" *...nor be deprived of life, liberty, or property without due process of law...*";

And, **14th Amendment**; "*...nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within it's jurisdiction the equal protection of the laws.*"

STATEMENT OF THE CASE

This story begins by introducing the Ventimiglia family, and their story, to the United States Supreme Court. This family consists of Mr. Ventimiglia, and his wife, Debbie Ventimiglia, with their two minor children, N.V.,16, and J.V.,14, and this family of four, (*the Ventimiglias*) were engaged in a civil action in St. Louis County, Missouri that came about when the Ventimiglias were seeking redress for malicious prosecution, and emotional distress, (intentional, & negligent), in St. Louis

County, from an illicit action taken against them, in St. Louis County, where the judge granted a partial Declaratory Judgment, granting favor and money to Mr. Ventimiglia, as the arbitrary, aggressive, plaintiffs/ respondents, were forced to abandon their manufactured case against Mr. Ventimiglia, just before trial, after they failed at summary judgment, and withheld exculpatory evidence for over one year, under the Honorable Judge Bresnahan, in division 5, of the 21st Judicial Circuit of St. Louis County, Mo.. Judge Perry, in her Memorandum of 1/5/2009, totally misrepresents these facts, along with many other facts.

CONSEQUENTLY, when the Ventimiglias attempted malicious prosecution remedies, in St. Louis County, some state actor parties, herein, started to rudely, and intentionally bend the rules to stop the Ventimiglias, by literally, abandoning the Rules of Ethics, and the U.S. Constitution. Those acts of respondents made it impossible for the Ventimiglias to completely present their case. It further caused the Ventimiglias to petition the Fed. Ct. for restraining orders against some respondents, herein, in violation of, *1st, 5th, & 14th Amendments.*

The Docket Statements, of this case, show and displays the history of this litigation.

OF GREATER IMPORTANCE, is that, the petitioners **PAID** the filing fees, (*D.S. 12/25/2009*), summons fees, and the costs of the appeal were paid by the petitioners. None of the petitioners were incarcerated during the state, or federal litigation, herein, but where treated as such.

While there are important facts that need to be known, this Court must review the petitioners brief, filed in the U.S. Court of Appeals for the 8th

Circuit, (*Appendix #16,*). The Statement of Facts begins on page #11 of that brief, and extends to Facts Supporting the Claims. (pages A42-A73). These facts are not refuted by the U.S. District Court, E.D.Mo.. Compare Appendices 1,2,3,4,5,6, with petitioners facts in their brief. The District Court, in one order after another ignored the facts, misstated the facts, and just down right, became an advocate for the respondents, diverting petitioners facts, issues, and claims, into something other than they were. (App. #6). (It being noted, only a Motion to Dismiss was on the Court's table, not Summary Judgment). (App. #6).

It must also be noted, an unknown state judge, without a hearing, notice, right to be heard, or, without charge, and without any hearing, or trial, filed the charges, and became the jury to try some issue, created by State Judge Carolyn C. Whittington. (App. #6, p.6, #6, and #16. P.p. #42-73). Judge Whittington made an illegal administrative order, and issued it as a Bill of Attainder against Mr. Ventimiglia, petitioner, for the police dept. to detain, and/or escort Mr. Ventimiglia whenever he was in the court house. No reason, or cause was ever stated.

Petitioner, Mr. Ventimiglia and his family, including witnesses, were threatened, unnecessarily harassed, and intimidated by the bailiff in Judge Kintz' Court, Division 5, while the bailiff allowed the attorneys to speak freely. The judges and the attorneys were having ex parte' meetings, and hearings to discuss the fate of petitioners, while petitioners were held, literally, under guard. All of these actions happened in the state court in Clayton, Mo., St.Louis County, with other illegalities; Then Mr. Ventimiglia filed for Injunctions against the illegalities, in the

federal court, before judge Perry.

There was *a proforma hearing* to discuss the preliminary, permanent, injunction, (App. #9), which was denied, and a motion for reconsideration was denied. (App. #5). During these times, the respondents in the Court said hardly anything, while U.S. District Judge Catherine D. Perry became the advocate for all of the defendants/respondents, and doing what she could to humiliate, and run the Ventimiglia family out of the court system without justice, but rather giving the green light to the State of Missouri to continue it's harassments and unconstitutional treatment of petitioners, as outlined in this underlying Writ, and record, herein.

On Motions to Dismiss the lawsuit, from opposing counsel, the request for a T.R.O., and Declaratory Judgment, should not have been denied, as the basis of the denial was strictly based on the fraud of the attorneys, failure of judge [1]Perry to examine the true facts, and Judge Perry's prejudice.

IN THE STATE COURTS, the respondents were taking one position, and said, " the federal court denied petitioners case on the merits, (*which was not true, not one issue was decided, in any court, ever, just a continual run around , with professional issue deflectors, in attorney suits, and*

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[1] Please read **Appendix #16**; These are additional facts in petitioner's brief that was filed in the 8th Circuit Court of Appeals, but rejected for no good reason, and continued denying petitioners due process and equal protection of the laws. **The attorneys wrote and reshaped the landscape of petitioner's case, and the judges used the false facts of the attorneys to dismiss petitioner's case, rather than admitting petitioner's facts as true, in every court. THIS ABSOLUTELY, IS A CONSPIRACY, ON IT'S FACE, BY STATE ACTORS, UNDER THE COLOR OF LAW, DENYING PETITIONERS DUE PROCESS.**

judge clothing), and in the Federal Courts, the attorneys took a different position, saying, " petitioners case, was a State case, and the federal court had no jurisdiction, and, Rooker-Feldman Doctrine precluded petitioners. This is how these state actors kept petitioners from pursuing proper redress, of their damages, wherein, judge Bresnahan declared petitioners favor and money, and ruled against some, respondents." Consequently, this was the position the federal court took,(*no jurisdiction, because the parties were immune, and, Rooker-Feldman*), as ill advised, by the attorneys, because petitioners were not challenging state court judgments. It was clearly outlined in petitioner's suit, that it was the actions of the judges, and their jurisdiction, being challenged, not their rulings, and their conspiracy with the attorney, state actors.

Judge Perry stated falsely, that the only state actors were the judges? This is false, see;
"11. Plaintiffs do set out the proper conditions in their complaints that show the " color of law" Requirements to maintain their civil claims, in this *Response*, and the *FAC*, and *SAC*, contrary to defendant's motions to dismiss; e.g. ***FAC**, p.#10, par. #1; p. #16, par. #1; p.#25, par. #5; p. #30, par. C; p. #32. par. #13; **SAC**, p. #8, par. #10; p. #14, par. (top); p.16, par. #1; p. #18, par. B; p. #21, par. #1; p. #32, par. #5; p. #44, par. F." Id.* ***Federal brief, p.44 PLEASE, SEE , " FACTS IN BRIEF ", Appendix #16 ESPECIALLY P.p. #A62-#A63, III***

By these attorneys, and judge Perry's, false positions, the Courts dismissed petitioners cases, wrongly, to rid the Courts of the Ventimiglias, pro se petitions against *state actors, who acted under the color of law, denying petitioners due process of law,*

and equal protection of the law.

The attorneys were playing two ends, against the middle, in an unethical scheme to rob and loot petitioners of their U.S. Constitutional freedoms, rights, and privileges, of meaningful access to the courts, and violations against petitioners 1st,5th, & 14th Amendments, *and tried to save their own skin,* in complete contradiction to this Court's, and the surrounding Federal Court's precedence, and operations, including, the *stare decisis* laws that govern these situations, involved, herein. The, judges, attorneys, & others, were named state actors, also, the parties in the federal suit, accrued from different nucleus' during the pursuit of the Ventimiglias to receive justice on the damages in Div.5, 21st, Judicial Circuit. The judges, bailiffs, and, other state actor, parties, were included as the case developed. There could be NO Rooker-Feldman, preclusion, in their interests in the law suit; And as for the other parties, there were never any issues decided in any court, to warrant Rooker-Feldman preclusion. It was brought up, to judge Perry, but ignored. Clearly showing, judge Perry's advocacy for the state actors, herein, in her memorandum, App. #6. She must be disqualified, and she was.

REASONS FOR GRANTING THE WRIT

I. The United States District Court and the Court of Appeals unfairly, usurped the Constitutional Rights of the Ventimiglia family when these Courts created and proceeded with an unconstitutional standard, inconsistent with the United States Supreme Court precedence, wherein, heightened standards are inappropriate for pro se litigants; And

where the Ventimiglia family was denied meaningful access to the state court, after petitioners triumphed over a malicious prosecution, & then tried to recover damages, and it caused a great substantial prejudice, manifested injustice, and the loss of the full and complete benefits guaranteed to them by the U.S. Constitutions, 1st, 5th, & 14th Amendments, therefore, stripping the Ventimiglias of due process and equal protection of the laws, consequently, leaving the Ventimiglias with no remedies for the wrongs done to them, wherein, Judge Bresnahan declared judgment , against some respondents, for the damages against the Ventimiglias, by some respondents, herein, that occurred in Division 5, St. Louis County, in 2006, 2007.

This is one of those cases, were something is very wrong, and the Court takes a serious view of these things, of this nature. It must be noted, that these ruthless respondents played two ends, against the middle, by lying to Courts with intentions of, trying to win with any means possible, legal, or illegal. The Court must stop the illegal maneuvers of the attorneys, involved, and restore justice to the Ventimiglia family, as it did in; *Hazel Atlas Glass Co. vs. Hartford Empire Co.* 322 U.S. 238, 64 S.Ct. 997; *Christopher vs. Harbury*, 122 S.Ct. 2129.

By law from the U.S. Supreme Court, these private attorneys are liable for these wrongs; *Dennis vs. Sparks,* 14 S.Ct. 183 (1980).

The District Court should have stayed it's action pending state action, results, to prevent such a fraud, as this Court demonstrated in; *Deakins vs. Monaghan*, 108 S.Ct. 525 (1988).

At any rate, the District Court was wrong in dismissing petitioner's case, as it did when following

this Court's precedence from; *Ashcroft vs. Iqbal*, 129 S. Ct. 1437(2009); *Hazel Atlas Glass Co., supra*; *Harbury, supra*; *Neitzke vs. Williams*, 109 S.Ct. 1827(1989), *Scherer vs. Rhodes,* 94 S.Ct. 683 (1974).

Bearing in mind, the court had a duty and an obligation to this family, to not use *heightened pleading requirement;* See, *Erickson vs. Pardus*, 127 S.Ct. 2147(2007); *Haines vs. Kerner*, 92 S.Ct. 594 (1972).*In re Funkhouser,* 873 F.2d 1076 (CA8 1989).

The District Court, in this case, was [2]erroneous in every single order it issued. (App. #5, #6,#7, #8, #9,& #10), and did not care who knew about it. It was clear that, of all the issues presented by the petitioners, that this Federal Court played a real low profile on the State Court Bill of Attainder, disguised as an Administrative Order, wherein Judge Whittington, then, presiding judge, did in fact, file charges, held a hearing, or hearings, found Mr. Ventimiglia guilty, of some thing, without any notice, and, without any compulsory process.

This Federal judge found that this grievous wrong only warranted a small foot note. (App. #6,

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[2] According to *Elrod vs. Burns* 427 U.S. 347, 377 (1976); Judge Whittington, the 8th Circuit Court of Appeals and Judge Perry are causing irreparable damages to Mr. Ventimiglia by allowing the Bill of Attainder, Administrative order to continue in force. This Court must act in petitioners defense, or there is no remedies for petitioners redress for the damages done to them by these state actors, acting under the color of law, in the denying of petitioners 1st, 5th and 14th Amendments. The Supreme Court held that the Due Process Clause of the Fourteenth Amendment applies the limitations of the First Amendment to each state, or any local government within a state; **No due process was allowed to petitioners**.

p.#6, #6). While the Court denied the T.R.O., it carelessly, also, denied the Reconsideration of that Order. (App. #7). Mr. Ventimiglia, petitioner, was never afforded any right to be confronted by his accusers, still to this day, after two attempts to have a hearing in Judge Whittington's Court.

Judge Perry refers to, " [3]a hearing," that she provided the petitioner? (App. #6). Mr. Ventimiglia was not allowed to produce witnesses, evidence, nothing, but, Judge Perry misstating facts, laws, and rules, and then breaking many rules of the Court to dismiss petitioner's case, by seeing evidence at hand.

The directed punishment, upon Mr. Ventimiglia, by Judge Whittington, and by Judge Perry, who denied the restraint on Mr. Ventimiglia, which was a continuation of irreparable harm to Mr. Ventimiglia, that was, and is continuing to this very day, executed, forthwith, in the state court arena, to advance the intimidation against petitioners, from the state actors of the 21st Judicial Circuit, in St. Louis County, Missouri.

The attorneys where allowed, by the judges, bailiffs, and Court security, in state court, to write false orders for the judge, go into the judge's chambers and change orders and to try to force petitioners to sign them. This is totally fraud, and this Court is

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[3] Mr. Ventimiglia tried to receive a hearing for the preliminary, and permanent injunction, etc. but judge Perry would not allow it. (appendices #5, #8) Judge Perry would not rule on the merits of the Declaratory Judgment in accordance to US 28, 2201, 2202, and Summary Judgment surrounding Judge Whittington's illegal Administrative Order, nor give Facts, Findings, and Conclusions of Laws. The irreparable harm is still damaging Mr. Ventimiglia's U.S. Constitutional freedoms. The state case was unpublished, and dismissed. **There is a Writ for Certiorari coming on that state case SC90165.**

against this type of behavior, falls deep within; *Hazel Atlas Glass Co. supra; Christopher vs. Harbury, supra;* Even assuming, the judges are immune, the attorneys, are not. See this Court's precedence in; *Dennis vs. Sparks,* 101 S.Ct. 183 (1980).

There is also, no question, that the many prejudice judges petitioners have had, the only comment notable is that, " a biased judge is not authorized, by law, to preside over a case." See, *Reserve Mining vs. Lord,* 529 F.2d 181 (CA8); *Moran vs. Clarke,* 309 F.3d 516 (CA8 Banc).

A Court of higher rank does not have to become a silent crime partner to a judge they know to be prejudice, as shown herein, these surrounding facts. *Reserve Mining supra, Moran vs. Clarke, supra.*

So petitioners, respectfully, ask this Court, what about judge Perry, in this case? Petitioners believe this Court should intervene and restore justice to petitioners, by allowing them and their case to be reinstated, heard and fairly decided by an impartial judge. Most importantly, petitioners pray that this Court grant this Writ. (Petitioners do at this time incorporate, and restate II, III, and, IV of this Section, into this section, I).

II. This Court should grant this writ of Certiorari because, both, the District Court, and the 8th Circuit Ct. of Appeals, unlawfully, applied the " *Prisoner Litigation Act Procedures,"* against the Ventimiglias, without authority of law from this Court and the surrounding federal jurisdictions, support, just the opposite, of clear the precedence of this Court.

This argument was addressed, partly, in "Question II," which is incorporated herein. The

petitioner shows to this Court, the record does not show petitioners were in " *forma pauperis*," or that the District Court ever cited this case as frivolous, or meritless, for an appeal. (Appendices #4, #5,#6, Ct. orders.). The 8th Circuit docket sheet also shows that the Ct. of Appeals, had no justifiable reason to deny this appeal of petitioners, without an opinion. (Appendix #3). Under 28 U.S.C. 1915A, and 42 U.S.C. 1997(e) (h), the Courts below had no right to treat the Ventimiglias as second class citizens, worse than prisoners. *Kane, supra.*

It is very obvious that it was the duty of the District Court to be fair to the Ventimiglias, and/ rather, it was to duty of the 8t Circuit Ct. of Appeals, to send this case back to the District Court, for proper review, outside of the Prisoner Reform Litigation Act, as other federal districts corroborate. *Kane vs. Lancaster County Dept. of Corrections,* 960 F.Supp. 214, 220 (D.C. Neb. 1996); with, *Floyd, supra.;* but the Ct. of Appeals chose to further the damages by affirming the unconstitutional precedence set by Judge Perry, with Rule 47B, totally in conflict with this Court's precedence, in dealing with "paid,"" free people's," litigations, that is not frivolous, nor meritless.

Petitioners case clearly shows that the facts outlined in petitioner's case, clearly suggests a conspiracy; That it, confers Federal jurisdiction is clear, and can not be ignored in this case. *White vs. McKinley*, 514 F.3d 807 (CA8); *U.S. vs. Wallace*, 673 F.Supp. 205 (S.D. Tex.); *U.S. vs. Price*, 86 S.Ct. 1152 (1965), *Weigel vs. Brown*, 8th Cir. Ct. of Appeals 194 F.652(1912);

III. This Court should grant certiorari because

the District Court unfairly, and wrongly denied the Ventimiglia family preliminary, and permanent injunctions, and Declaratory Judgment contrary to this Court and other Federal Court's precedence;

A reading of the U.S. District Court orders, (App. #5,#6,#7), and the 8th Circuit Ct. of Appeals Orders, (Appendix #1,#2); it is plain to see these courts treated petitioners as if they were prisoners, subject to 28 U.S.C. 1915A, and, 42 U.S.C. 1997(e). But, petitioners are not prisoners, and the law, and the procedures, do not allow petitioners to be treated as such prisoners. See, *Kane vs. Lancaster County Dept. of Corrections,* 960 F.Sup. 219,220 D.C.Neb. 1997); *Floyd vs. U.S.Postal Service*, 105 F.3d 274 (CA6); *42 U.S.C. 1997(e)(h).* And yet, this is how the 8th Circuit processed this case. (Appendix 1,2,3,).

The Prisoner Litigation Act places many restrictions on prisoners that do not apply to free people. *ie. In Re Prison Litigation Reform Act, 105 F.3d 1131(CA6).*

There is one proper way of issuing injunctions, and Declaratory Judgments. In this case, Judge Perry, the Federal Judge, invoked the Prison Litigation Act Procedures, to not address petitioner's petition for T.R.O., Preliminary, Permanent Injunctions, and Declaratory Judgment, in accordance to 28 USC 2201, 2202. This was very wrong, as the District Court had the power, and duty, to address whether the state court had an on going conspiracy. See, *Winters vs. Palumbo*, 512 F.Supp. 7 (E.D.Mo.); *Winters vs. Callahan*, 512 F.Supp. 11 (E.D.Mo.).

As a matter of fact, the record clearly shows that the District Court had no intentions of properly addressing these issues, but rather made deflective excuses about not having subject matter jurisdiction,

when there is jurisdiction for the U.S. District Court, whenever, there are state actors, denying U.S. citizens, due process and equal protection of the laws, by denying them meaningful access to the State Courts, for proper redress from damages done by malicious prosecution, and this is much of what, caused irreparable harm to Mr. Ventimiglia, and his family for the past two years.

In accordance with, *Elrod, supra*, petitioners Are suffering damages, that are ignored by the 8th Circuit, and the State Courts, and this Court's precedence forbids these types of actions, by state actors, and federal actors, as outlined herein, this underlying writ. (Appendices #5, #6, #7, #8, and, #12)

Petitioners do at this time, incorporate, and restate Sections I, II, and IV, of this Section, into this section III.

IV. This Court should grant this writ of Certiorari because Judge Catherine D. Perry was very prejudiced, and biased, to petitioners, and used illegal standards, as outlined herein, that clearly shows she was, blinded by her prejudice, and violated numerous Rules of the F.R.C.P. to dismiss appellant's case, and denied them due process of law and equal protection of the law, and she should have recused herself, as clear precedence dictates, that is set by this court, and surrounding Federal Courts that have decided issues as this. *(there are four sworn affidavits in the record, about the wrong actions of respondents, including, Judge Catherine D. Perry).*

Judge Perry's disqualification was required; *Liteky vs. U.S.*, 114 S.Ct. 1147, 1162 (1994); What matters is not the reality of bias, or prejudice, but it's appearance. *Liljeberg vs. Health Services Acq.*

Corp., 486 U.S. 847, 108 S.Ct. 2194 1988); 'This Court must continue to promote ,"public confidence," from the biased, and prejudiced judges.' *United States vs. Balisterieri*, 779 F.2d 1191(7th Cir. 1985), with *28 U.S.C. § 455(a); Taylor vs. Grady*, 888 F.2d 1189 (7th Cir. 1989); *Pfizer vs. Lord*, 456 F.2d 532 (8th Cir. 1972); Justice must satisfy the appearance of justice, which has been lost in the Ventimiglia case. *Levine vs. United States*, 362 U.S. 610, 80 S.Ct. 1038 (1960); Catherine D. Perry, clearly showed prejudice by not recusing herself. *Taylor vs. O'Grady*, 888 F.2d 1189 7th Cir. 1989), and, *Balisterieri*, at 1202, judge Perry should have sua sponte'ed her recusal, instead of making excuses, to dismiss. **ONCE A JUDGE HAS BEEN LEGALLY DISQUALIFIED, NONE OF THE ORDERS ISSUED BY THAT JUDGE ARE VALID, BUT VOID.** Judge Catherine D. Perry has clearly violated due process laws against the Ventimiglias; *United States vs. Sciuto*, 521 F.2d 842, 845 (7th Cir. 1996);

Since Judge Perry was legally, ethically, and correctly, disqualified, she had; **NO JURISDICTION TO DISMISS PETITIONER'S CASE, AND HAS COMMITTED TREASON AGAINST THE U.S. CONSTITUTION. NOT WITHSTANDING, THE 8TH CIRCUIT COURT OF APPEALS SHOULD HAVE REVERSED THIS CASE, BUT CHOSE TO FOLLOW THE TREASONOUS BEHAVIOR.** This case is legally, [4]not dismissed, by judge Catherine D.

---

[4] Mr. Ventimiglia outlined, in petitioner's first Motion to Disqualify Judge Perry, over eight F.R.C.P., that Judge Perry violated, in dismissing their Injunctions. D.S. #86, filed on 12/8/2008.

Perry, or the 8th Circuit Ct. of Appeals.

A judge who fails to follow the Rules, and Laws, has no jurisdiction, and damages are warranted. See, *Weigel vs. Brown*, 194 F. 652 (8th Cir. Ct. of Appeals, 1912). Judge Perry stated in her memorandum, that," the judges had immunity, therefore she had no jurisdiction." This is totally conflicting with this Court, according to *Weigel, supra, Sciuto, supra, Balistrieri, Taylor, supra, Pfizer, supra, Liljeberg, supra,* and *Liteky, supra,* she is very wrong. One thing Judge Perry stated correctly, is that she had no jurisdiction. In truth, she had, *No jurisdiction to dismiss petitioners case. Judge Perry was defending the other judges, wrongly, especially her female counterpart, judge Whittington, then, presiding judge, 21st judicial circuit.*

Petitioners, do at this time, incorporate and restate Sections I, II, and, III, of this Section, into this Section IV..

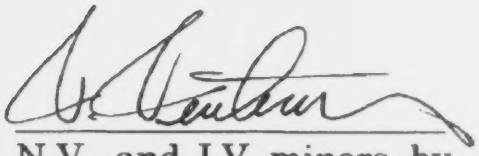
CONCLUSION

Wherefore, petitioners pray this Writ for Certiorari be granted for any, or all, reasons stated herein.

Respectfully submitted,

Vincent Ventimiglia
5817 Runnymede Place
Imperial, MO. 63052

Debbie Ventimiglia
5817 Runnymede Pl.
Imperial, MO. 63052



N.V., and J.V. minors, by
Father, & Next of Friend,
Vincent Ventimiglia
5817 Runnymede Place
Imperial, MO. 63052

CERTIFICATE OF SERVICE, & CERTIFICATE OF COMPLIANCE

I, VINCENT VENTIMIGLIA, do declare that on this date of August 22nd, 2009, as required by Rule 29, that I have served a copy of the enclosed petition for Certiorari on each party to the above Proceeding, to the parties counsel, and to every other person required to be served by depositing an envelope containing the above documents into the U.S. Mail, properly addressed to each of them, with first class U.S. Postage, prepaid, to the names and addresses below, as follows;

Christopher J. Quinn
P.O.BOX 861
St. Louis, MO. 63188;

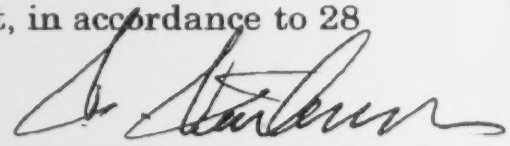
Russell Watters,
Jennine Adamek Moore,
Kenneth Goleaner,
1010 Market St.
St. Louis, MO. 63102;

Daniel Tobben
Kevin Berhnt
7701 Forsyth
Suite 200
Clayton, MO. 63105.

Vincent Ventimiglia
5817 Runnymede Place
Imperial, MO. 63052
18.

As required by Supreme Court Rule 33.1(h), I certify that the petition for a Writ of Certiorari contains ***3928*** words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I do declare under penalty of perjury that the forgoing is true and correct, in accordance to 28 U.S.C. § 1746.



Vincent Ventimiglia

No. _____

In The
UNITED STATES SUPREME COURT

_____ ◈ _____

Vincent Ventimiglia, et al.,

Petitioners,

vs.

St. Louis C.O.G., Inc., et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE 8TH CIRCUIT EASTERN DISTRICT OF MISSOURI

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I, VINCENT VENTIMIGLIA, declare under 28 U.S.C. 1746 that he has read the attached appendices and the same are true and correct, and has not been changed in any manor, whatsoever.

DATED: 8/22/2009

Respectfully submitted,

Vincent Ventimiglia

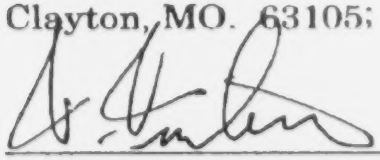
CERTIFICATE OF SERVICE

I, VINCENT VENTIMIGLIA, certifies in accordance with U.S.S.Ct. RULES that he has mailed true copies of the foregoing, postage prepaid, first class U.S. MAIL, this 22nd day, of Aug, 2009, to the attorneys of record, below;

To: Christopher J. Quinn
P.O.BOX 861
St. Louis, MO. 63188;

Russell Watters,
Jennine Adamek Moore,
Kenneth Goleaner,
1010 Market St.
St. Louis, MO. 63102

Daniel Tobben
Kevin Berhnt
7701 Forsyth
Suite 200
Clayton, MO. 63105;



Vincent Ventimiglia
5817 Runnymede Place
Imperial, MO. 63052

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No: 09-1222 **ORDERED: JUNE 22, 2009**

Vincent Michael Ventimiglia, I, as Next Friend of N.V. and J.V., et al., Appellants

v.

St. Louis Cog, Inc., a Missouri non-for-profit corporation, doing business as Twin Rivers Worship Center, et al., Appellees

---

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis (4:08-cv-01199-CDP)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied. June 22, 2009. Order Entered at the Direction of the Court: Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

JUDGES: ROGER L. WOLLMAN; DAVID R. HANSON; LAVENSKI R. SMITH

UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

ORDERED;
MAY 18, 2009

No: 09-1222

Vincent M. Ventimiglia,
as Next Friend of N.V. and J.V.; Debbie Ventimiglia;
N.V., a minor; J.V., a minor, Plaintiffs - Appellants

v.

St. Louis Cog, Inc., a Missouri non-for-profit corporation, doing business as Twin Rivers Worship Center; T. Bryan Cutshall, Pastor and CEO of TRWC; David J. Hayes, Incorporator of TRWC; Carl Whitaker, Incorporator of TRWC; Norman McFall, Business Agent of TRWC; Terry Jones, Registered Agent and Attorney for TRWC; Carolyn C. Whittington, Presiding Judge, 21st Judicial Circuit; Michael T. Jamison, Division 10, 21st Judicial Circuit; John Kintz, Division 5, 21st Judicial Circuit; Daniel George Tobben, Attorney; Jennine D. Adamek Moore, Attorney, Defendants - Appellees

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis
(4:08-cv-01199-CDP)

JUDGMENT

It is ordered by the court that the judgment of the district court is affirmed. See Eighth Circuit Rule 47B. Appellants' pending motion is denied as moot. May 18, 2009 Order Entered at the Direction of the Court: Clerk, U.S. Court of Appeals, Eighth Circuit.

_____

/s/ Michael E. Gans
Case: 09-1222

Page: 1 Date Filed: 05/18/2009 Entry ID: 3548268

JUDGES; ROGER L. WOLLMAN; DAVID R. HANSON; LAVENSKI R. SMITH

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA,	)	
	)	ORDERED;
Plaintiff,	)	1 / 15 / 2009
	)	
vs.	)	Case No.
	)	4:08CV1199 CDP
	)	
ST. LOUIS C.O.G., INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

I dismissed plaintiffs' claims by Memorandum and Order dated January 5, 2009 and denied plaintiffs' motion to alter or amend judgment on January 14, 2009. This case is now closed.
Accordingly, **IT IS HEREBY ORDERED** that plaintiffs' motions to strike [#113], to disqualify judge [#114], for facts, findings, and conclusions of law [#115], and for leave to file additional pages [#116] are denied.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 15th day of January, 2009.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA,	)	**ORDERED;**
	)	**1/14/2009**
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	4:08CV1199 CDP
	)	
ST. LOUIS C.O.G., INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

Before me now is plaintiffs' motion to alter or amend the Order of Dismissal and its accompanying Memorandum and Order issued on January 5, 2009. Because plaintiffs' motion presents no basis for relief under Rules 59 or 60 of the Federal Rules of Civil Procedure, the motion will be denied. The motion for final judgment will be denied as moot because the Order of Dismissal entered on January 5, 2009 [docket # 194] is a final judgment.

Accordingly, **IT IS HEREBY ORDERED** that plaintiffs' motion to alter or amend [#110] is denied.

IT IS FURTHER ORDERED that plaintiffs' motion to issue a final judgment [#109] is denied as moot.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 14th day of January, 2009.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA,	)	ORDER;
	)	1-5-2009
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	4:08CV1199 CDP
	)	
ST. LOUIS C.O.G., INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

After becoming dissatisfied with the results of their state-court proceedings, plaintiffs brought this federal case against many of the same parties, as well as against the state judges who had ruled on their cases, the lawyers representing the opposing parties in those cases, and others. Plaintiffs have filed numerous motions, including a motion for temporary restraining order, which I denied after a hearing. Defendants have filed motions to dismiss, and I agree that dismissal of this case is appropriate, for the reasons that follow. Procedural Background The Twin Rivers Worship Center[1] obtained a temporary restraining order in state court against plaintiff Vincent Ventimiglia after he allegedly disrupted its church services on September 17, 2006. Following

[1]Defendant St. Louis C.O.G., Inc. does business as the Twin Rivers Worship Center.

the denial of a writ sought by Ventimiglia with Missouri's appellate courts, Twin Rivers voluntarily dismissed its action for a restraining order against Ventimiglia. Ventimiglia filed a lawsuit in St. Louis County Circuit Court against Twin Rivers, its pastor T. Bryan Cutshall, and others, alleging claims of libel, slander, and defamation. On defendants' motion, the court dismissed Ventimiglia's case, without prejudice. Ventimiglia appealed the dismissal, but ultimately voluntarily dismissed his appeal. Ventimiglia filed a second lawsuit against Twin Rivers, the church's attorney Terry Jones, and Cutshall, again in St. Louis County Circuit Court, on February 22, 2008. Defendants moved to dismiss the case, and the motion to dismiss was granted with prejudice in June of 2008. Ventimiglia appealed the dismissal, and that dismissal is currently pending before the Missouri Court of Appeals. Ventimiglia also filed two writs with Missouri's appellate courts in 2008 relating to these lawsuits, both of which were denied. Ventimiglia and his family filed this federal case in August of 2008, seeking to bring federal and state claims arising out of the same events previously litigated in state courts. In addition to the defend-ants they had sued in state court, the Ventimiglias have added as additional defendants three state court judges who presided over matters in the state court cases,[2] two attorneys who represented the [3]Defendants Daniel Tobben and Jennine Adamek-Moore.

[2]Defendants Carolyn Whittington, Michael Jamison, and John Kintz.

[3] and other Twin Rivers officials.

[4]Defendant David Haynes and unserved defendants Norman McFall and Carl Whitaker. [5]Two Twin Rivers defendants, Carl Whitaker and Norman McFall, remain unserved in this case. Because plaintiffs' amended complaint alleges the same facts and claims against these unserved defendants that are alleged against the remaining defendants, the Court dismisses the claims asserted against these defendants for the same reasons and on the same basis as stated above. defendants in state court,

Discussion;
The purpose of a motion to dismiss for failure to state a claim under Rule 12(b)(6) is to test the legal sufficiency of the complaint. The court must assume all factual allegations of the complaint are true and must construe those allegations in favor of the plaintiff. Neitzke v. Williams, 490 U.S. 319, 326 (1989). "The motion will succeed or fail based upon the allegations contained in the face of the complaint." McAuley v. Federal Ins. Co., 500 F.3d 784, 787 (8th Cir. 2007) (internal citations and quotation marks omitted). However, the factual allegations in the complaint must be more than

4 The Ventimiglias' claims stem from the September 17, 2006 incident and resulting litigation, and their dissatisfaction with the proceedings in state court. All served defendants have moved to dismiss the claims against them, and plaintiffs have filed a consolidated opposition to the motions to dismiss.
5 Because the state-court judges have judicial immunity from suit, I must dismiss them from this action. I lack jurisdiction over the remaining federal claims and so will dismiss them for lack of subject-matter jurisdiction. I decline to exercise Supplemental jurisdiction over the state-law claims, and so will dismiss them without prejudice.

(well-settled that criminal statutes rarely survive § 1983 analysis because criminal statutes express prohibitions rather than personal entitlements, and nothing short of a right conferred unambiguously conferred by Congress will create a private right of action enforceable under § 1983) (citing Gonzaga University, 536 U.S. at 283). "Only state actors can be held liable under § 1983." Youngblood v. Hy-Vee Food Stores, Inc., 266 F.3d 851, 855 (8th Cir. 2001). A private party who willfully engages in joint activity with a state or its agents is considered a state actor. *Id.* The only state actors named in the amended complaint are the three state court judges, Carolyn Whittington, Michael T. Jamison, and John Kintz, who presided over Ventimiglia's state court cases. Plaintiffs' amended complaint alleges that Judge Whittington: failed to act upon Ventimiglia's complaints of alleged misconduct by attorneys and other judges; refused to consider Ventimiglia's petition seeking an order of contempt against attorneys; denied Ventimiglia's request to record a hearing; issued an order which did not reflect Ventimiglia's arguments and objections; ordered the case Transferred to Judge Kintz after Ventimiglia moved to disqualify Judge Jamison; and acted without jurisdiction because pending motions were allegedly frivolous or mooted by amended pleadings.[6] Plaintiffs' amended complaint alleges that Judge Jamison:

---

[6]In the motion for temporary restraining order that I denied on November 25, 2008, Ventimiglia added allegations that Judge Whittington, along with other people who were not named as defendants in the complaint, violated his rights by requiring that police officers accompany him when he entered the St. Louis County courthouse, and by otherwise interfering with his access to the courts. (Doc. # 64).

denied Ventimiglia's motion that a hearing be recorded; was rude to Ventimiglia and allowed him to present only a summary of his argument during a hearing; allow-ed attorneys to "misrepresent the record" and did not read Ventimiglia's pleadings or listen to his arguments; and signed an order prepared by defense counsel without incorporating Ventimiglia's pleadings, motions, arguments, and proposed orders. Plaintiffs' amended complaint alleges that Judge Kintz: failed to act on Ventimiglia's complaints of unethical behavior by attorneys; denied or refused to hear Ventimiglia's petition seeking an order of contempt against the attorneys; was rude to Ventimiglia and laughed at him; allowed a bailiff to interrupt Ventimiglia and threaten to remove him from hearings; "shut down" a hearing without allowing plaintiff sufficient time to present his pleadings, motions, and arguments and without ruling on his numerous objections; signed orders from which attorneys had "deleted" references to Ventimiglia and his pleadings; dismissed Ventimiglia's case with prejudice and denied his request for a rehearing. "Judges performing judicial functions enjoy absolute immunity from § 1983 liability." Robinson v. Freeze, 15 F.3d 107, 108 (8th Cir. 1994). Judicial immunity is "an immunity from suit, not just from ultimate assessment of damages" and accordingly cannot be "overcome by allegations of bad faith or malice." Mireles v. Waco, 502 U.S. 9, 11 (1991) (Section 1983 suit against judge for allegedly ordering bailiffs to seize attorney and bring him to court was properly dismissed). Judicial immunity extends to judicial actions taken in error, done maliciously, or perform-ed in excess of authority. Stump v. Sparkman, 435

U.S. 349, 356-57 (1978) (judicial immunity barred § 1983 suit seeking damages for forced sterilization of mentally disabled minor); Duty v. City of Springdale, Arkansas, 42 F.3d 460, 463 (8th Cir. 1994) (judicial immunity barred § 1983 suit To the extent plaintiffs sue the judges for monetary 7 damages in their official capacities, their § 1983 claims are also barred by the Eleventh Amendment. See Hafer v. Melo, 502 U.S. 21, 25 (1991); Will v. Michigan Dept. of State Police, 491 U.S. 58, 71 (1989). against municipal judge who issued arrest warrant without jurisdiction); White v. Bloom, 621 F.2d 276, 279-80 (8th Cir. 1980) (judicial immunity barred § 1983 suit against state court judge who allegedly conspired with prosecutor to empanel and all white jury after ordering African-American criminal defendant removed from courtroom even if judge's actions were "taken in error" or "arguendo may even have been done maliciously.").The only allegations made against the judges relate to how they handled Ventimiglia's state-court cases. Essentially, plaintiffs complain about how the judges held hearings, issued orders, and ruled on motions. These are quintessentially judicial functions, and the judges are absolutely immune from liability for these actions, even considering plaintiffs' allegations of malice. See Mireles, 502 U.S. at 11-12; Forrester v. White, 484 U.S. 219, 227 (1988) (holding that a judicial act "does not become less judicial by virtue of an allegation of malice or corruption of motive."). For this reason, the § 1983 and § 1985 claims against the judges must be dismissed.7 See Snelling v. Westhoff, 972 F.2d 199, 200 (8th Cir. 1992) (absolute immunity bars conspiracy claims under § 1985). Even if plaintiffs' amended complaint adequately alleges that the remaining

defendants (who are not state actors) should be considered state actors for purposes of imposing § 1983 liability against them – a finding I do not make plaintiffs' § 1983 claims must be dismissed. The Court lacks jurisdiction to hear these claims under the Rooker-Feldman doctrine, which precludes this court from hearing claims that "in effect constitute[] a challenge to a state court decision." Ballinger v. Culotta, 322 F.3d 546, 549 (8th Cir. 2003).Federal district courts "exercise original, not appellate, jurisdiction." Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 283 (2005). Only the Supreme Court has jurisdiction to consider the appeal of a state court judgment. 28 U.S.C. § 1257. "If a state trial court errs the judgment is not void, it is to be reviewed and corrected by the appropriate state appellate court. Thereafter, recourse at the federal level is limited solely to an application for a writ of certiorari to the United States Supreme Court." Weekly v. Morrow, 204 F.3d 613, 615 (5th Cir. 2000) (internal citations omitted). Where a losing party in a state court action files a complaint in federal district court alleging injuries caused by an earlier state court judgment, and asks that the "district court review and rejec[t]" the judgment, the Rooker-Feldman doctrine requires that the case be dismissed for lack of subject matter jurisdiction. Exxon Mobil Corp., 544 U.S. at 283-84; see also Rooker v. Fid. Trust Co., 263 U.S. 413 (1923); D.C. Ct. of Appeals v. Feldman, 460 U.S. 462 (1983). Stated otherwise: A federal district court has jurisdiction over general constitutional challenges if these claims are not inextricably intertwined with the claims asserted in state court. A claim is inextricably intertwined if the federal claim succeeds only

to the extent that the state court wrongly decided issues before it. In other words, Rooker-Feldman precludes a federal action if the relief requested in the federal action would effectively reverse the state court decision or void its ruling. Charchenko v. City of Stillwater, 47 F.3d 981, 983 (8th Cir. 1995). The state and federal claims need not be identical for the Rooker-Feldman doctrine to apply, and the parties to the federal action need not be the same parties in the underlying state action. Lemonds v. St. Louis County, 222 F.3d 488, 493-94 (8th Cir. 2000).To determine whether the Rooker-Feldman doctrine applies, courts have distinguished between claims "alleging injuries caused by a state court judgment" and those claims "alleging a prior injury that a state court failed to remedy." Skit International, Ltd. v. DAC Technologies of Arkansas, Inc., 487 F.3d 1154, 1157 (8th Cir. 2007) (quoting Exxon Mobil Corp., 544 U.S. at 291). If a plaintiff would have no injury if the state court had not entered the judgment it did, then that plaintiff's federal claim is barred under Rooker-Feldman. Skit, 487 F.3d at 1157. "[E]ven if the state court judgment [is] erroneous" a plaintiff may not seek to have the federal court declare it void, as the judgment is "open to reversal or modification in an appropriate and timely appellate proceeding." Id. (quoting Rooker, 263 U.S. at 415). Here, plaintiffs were the losing parties in a state court proceeding that resulted in a dismissal with prejudice. That judgment is currently on appeal before the Missouri Court of Appeals. Plaintiffs are alleging that the state judges and other defendants violated their constitutional rights in the state court proceeding. The actions of defendants in connection with the prior lawsuit provide the basis for plaintiffs' claims

in this case. The federal claims are inextricably intertwined with the adverse judgment in the underlying state action, which is demonstrated by the state-court legal file attached to plaintiffs' amended complaint. Plaintiffs are currently appealing the same conduct and errors at issue here to the Missouri Court of Appeals. As the Supreme Court has recognized, Rooker-Feldman precludes "a party losing in state court . . . from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party's claim that the state judgment itself violates the loser's federal rights." Johnson v. De Grandy, 512 U.S. 997, 1005-06 (1994). That is exactly what plaintiffs are attempting to do here. "[F]ederal plaintiffs cannot by artful pleading obtain a hearing of disguised state court appeals that would otherwise be 8Moreover, to the extent that the state case remains pending before the Missouri Court of Appeals, abstention from exercising jurisdiction is proper under the principles announced in Younger v. Harris, 401 U.S. 37 (1971). "Younger abstention is appropriate when (1) the federal action would disrupt an ongoing judicial proceeding (2) which implicates important state interests and (3) which provides an adequate opportunity to raise constitutional challenges." Cormack v. Settle-Beshears, 474 F.3d 528, 532 (8th Cir. 2007). Here, the state case is ongoing; the state proceedings, and especially how those proceedings are conducted, certainly implicate important state interests; and the proceedings before the Missouri Court of Appeals would provide an adequate opportunity for plaintiffs to raise federal challenges, as state courts may review constitutional claims. 9The elements of a

claim under 42 U.S.C. § 1985(2) are that: 1)defendants conspired; 2)for purposes of impeding, hindering, obstructing, or defeating in any manner the due course of justice; 3) with intent to deny a citizen of the equal protection of the law or injure him for lawfully enforcing, or attempting to enforce, the right of any person to the equal protection of the law. 42 U.S.C. § 1985(2). To establish the existence of a conspiracy under 42 U.S.C. § 1985(3), plaintiffs must prove that the defendants did 1) conspire . . . 2) for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws . . . that one or more of the conspirators 3) did, or caused to be done any act in furtherance of the object of the conspiracy whereby another was 4a) injured in his person or property or 4b) deprived of having and exercising any right or privilege or a citizen of the United States. 42 U.S.C. § 1985(3). subject to a Rooker-Feldman bar." Lemonds, 222 F.3d at 494.8 The Rooker-Feldman doctrine also deprives this Court of jurisdiction over plaintiffs' claims that defendants' actions in the state court proceeding amounted to a civil conspiracy in violation of § 1985 for the same reasons stated above. Even if it did not, plaintiffs' amended complaint fails to state a claim for a civil conspiracy under § 1985.9 The "purpose" element of § 1985(2) and (3) requires that plaintiffs prove some racial, or perhaps otherwise class-based "invidiously discriminatory animus." United Bhd. of Carpenters, Local 610 v. Scott, 463 U.S. 825, 834 (1983); City of Omaha Employees Betterment Assoc. v. City of Omaha 10With regard to plaintiffs' § 1985(2) claim, the Court further notes that merely being the losing

party in state court actions is not a sufficient basis from which to infer obstruction of justice.
11The proposed second amended complaint alleges only that Vincent Ventimiglia is part of the "class" of "prior convicted felons;" it makes no similar allegations regarding the other plaintiffs, so even if this allegation were somehow sufficient to demonstrate invidious discrimination – which it is not – it would still not state claims for the other plaintiffs. AFSCME, Local 251, 883 F.2d 650, 652 (8th Cir. 1989); Lewellen v. Raff, 843 F.2d 1104, 1116-17 n.16 (8th Cir. 1988). "Additionally, to succeed on a civil rights conspiracy claim, the plaintiff must demonstrate discriminatory purpose in that the defendants selected the particular course of action 'because of' not merely in spite of its adverse effects upon an identifiable group." Andrews v. Fowler, 98 F.3d 1069, 1079-80 (8th Cir. 1996) (internal quotation marks and citations omitted). 10Plaintiffs' amended complaint makes no allegations of class-based discriminatory animus and therefore fails to state a claim under § 1985. However,plaintiffs' proposed second amended complaint does contain a section entitled "Plaintiff, Mr. Ventimig-lia's Invidious Discriminatory Animus Class." I havereviewed this proposed pleading to determine whether amendment would cure the deficiencies in plain-tiffs' § 1985 claims and conclude that it does not.
Ventimiglia11 claims that he is being discriminated against because of his membership in the class of "being a prior convicted felon of many years ago" and 12Ventimiglia's assertion of his status as a prior convicted felon as opposed to a current prisoner does not alter the analysis or allege the type of invidious discrimination at which § 1985 is directed.

being "pro se." These allegations do not demonstrate that defendants engaged in
the type of *invidious* discrimination at which § 1985 is directed, where "[t]he ultimate test, of course, is whether the classification is sufficiently invidious so a to fall within the statute's ambit." Shortbull v. Looking Elk, 677 F.2d 645, 649 (8th Cir. 1982). "Neither prisoners nor indigents are suspect classes." Abdul-Akbar v. McKelvie, 239 F.3d 307, 317 (3rd Cir. 2001); see also Farese v. Scherer, 342 F.3d 1223, 1229 n.7 (11th Cir. 2003); Rose v. Leaver, 35 Fed. Appx. 191, 193 (6th Cir. 2002).12 Moreover, although plaintiffs' amended complaint is replete with allegations of personal animus between plaintiffs and the defendants, these allegations by themselves are irrelevant and unhelpful to their § 1985 claims. Id. at 649 (stating that "Shortbull's allegation that appellees discriminated against him because of his individual political opposition to them is not actionable under § 1985(c)"). For these reasons, plaintiffs fail to state § 1985 claims. Without addressing the adequacy of plaintiffs' state law claims, the Court declines to exercise jurisdiction over them. Generally, this Court only has Jurisdiction to adjudicate claims based on either federal subject matter jurisdiction or diversity jurisdiction. 28 U.S.C. §§ 1331 & 1332. However, a "federal court has jurisdiction over an entire action, including state-law claims, whenever the federal-law claims and state-law claims in the case derive from a common nucleus of operative fact and are such that a plaintiff would ordinarily be expected to try them all in one place." Carnegie-Mellon University v. Cohill, 484 U.S. 343, 349 (1988); see also 28 U.S.C. § 1367. Upon a determination that plaintiffs' federal

claims fail to state a claim, the Court has discretion to dismiss without prejudice plaintiffs' attendant state law claims. See Miner v. Local 373, 513 F.3d 854, 866 (8th Cir. 2008). The Court, in its discretion, dismisses plaintiffs' state law claims without prejudice. Plaintiffs have moved to amend their complaint again. Although leave to amend should be freely granted, amendment may be denied when futile. See Hammer v. City of Osage Beach, Missouri, 318 F.3d 832, 844 (8th Cir. 2003). In this case, I will deny plaintiffs' proposed second amended complaint as futile because it does not correct the deficiencies of the amended complaint. Finally, I have reviewed plaintiffs' second motion to disqualify me from Presiding over this case, as well as the supplement to the motion. The supplement accuses me of "being a murderer to babies," (Doc. # 102 at 3) "anti Christ," (Doc.# 102 at 4) "anti bible," (Doc. # 102 at 1), "evil, by biblical definition," (Doc. #102 at 3), and says, of me, "she intends only evil to her Spirtual enemies, the Ventimiglia responded "Yes, ma'am" after I is stated that "I don't have jurisdiction to just act like I'm the Missouri Court of Appeals and tell a Missouri Circuit Judge what to do. I know you understand that because you've had so many cases. You're a very experienced litigator, right?" (Doc. # 89 at 17). Ventimiglia argues that this Court is attempting to "elevate them to a heightened level of legal expertise." The Court certainly does not believe that Ventimiglia has acquired any "heightened level of legal expertise" by virtue of the numerous lawsuits (ten) he has filed in this court, but the fact remains that Ventimiglia is an experienced litigator, albeit a pro se one. Ventimiglias" (Doc. # 102 at 4). The Ventimiglias call themselves "ambassadors from

heaven, via, Jesus Christ, and the bible." (Doc. # 102 at 4). Plaintiffs apparently believe that if their allegations are scandalous enough, I will be required to recuse myself. This is simply not the law, and is an inappropriate attempt to judge-shop. Cf. United States v. Dehghani, 2008 WL 5273966 (8th Cir. December 22, 2008) (slip op.) (judge not required to recuse even though defendant made threat against him). Because the second motion and accompanying materials present no valid basis for disqualification, I will deny the motion for the reasons stated in my prior Memorandum and Order denying disqualification dated December 10, 2008. I am also denying plaintiffs' motion to correct the transcript of the November 25, 2008 hearing on plaintiffs' motion for temporary restraining order. The transcript accurately reflects what Mr. Ventimiglia said during the hearing, 13 and his request to have the court reporter investigated by the Attorney General is baseless. All remaining pending motions are denied as moot because this case is dismissed. A separate Order of Dismissal in accordance with this Memorandum and Order is entered this same date.

Accordingly,

IT IS HEREBY ORDERED that defendants' motions to dismiss [#30, #32, #40, #46, #51, #60] are granted in part and denied in part consistent with this memorandum and Order, and Counts I-VI of plaintiffs' amended complaint are dismissed, with prejudice. Counts VII-IX of plaintiffs' amended complaint are dismissed without prejudice. **IT IS FURTHER ORDERED** that plaintiffs' motion for leave to file second amended complaint [#39] is denied, and their motion to supplement record [#91] is granted. **IT IS FURTHER ORDERED** that plaintiffs' second motion

for disqualification [#95] and their motion to correct transcripts [#99] are denied. **IT IS FURTHER ORDERED** that all remaining pending motions are denied without prejudice as moot.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 5th day of January, 2009.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA, et al.,	) **ORDERED;**
	) **1 - 5 - 2009**
Plaintiffs,	)
	)
vs.	) Case No.
	) 4:08CV1199
	) CDP
	)
ST. LOUIS C.O.G., INC., et al.,	)
	)
Defendants.	)

ORDER OF DISMISSAL

In accordance with the Memorandum and Order entered this same date, **IT IS HEREBY ORDERED, ADJUDGED and DECREED** that Counts I-VI of plaintiffs' amended complaint are dismissed with prejudice, and Counts VII-IX of plaintiffs' amended complaint are dismissed without prejudice.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 5th day of January, 2009.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA,	) **ORDER;**
	) **12/10/08**
Plaintiff,	)
	)
vs.	) Case No.
	) 4:08CV1199CDP
	)
ST. LOUIS C.O.G., INC., et al.,	)
	)
Defendants.	)

MEMORANDUM AND ORDER

This matter is before me on motions filed by plaintiff Vincent Ventimiglia relating to the motion for temporary restraining order, which I denied on the record following a hearing on November 25, 2008. Mr. Ventimiglia now moves for a rehearing on the motion for temporary restraining order, default judgment against three non-parties to this lawsuit, and to disqualify me from presiding over this case. All motions will be denied. The motion for rehearing will be denied. Plaintiffs were given a hearing on the motion for temporary restraining order, and after consideration of the arguments and evidence presented on their behalf, I denied the motion for failure to meet the standards for issuing a temporary restraining order.1 Because Mr. litigant; (3) the probability that movant will succeed on the merits; and (4) the public interest." Dataphase Systems, Inc. v. C.L. Systems, Inc., 640 F.2d 109, 113 (8th Cir. 1981). A temporary restraining order is an extra-

ordinary and drastic remedy. Williams Pipe Line Co. v. City of Mounds View, Minnesota, 651 F.Supp. 544, 548 (D. Minn. 1986). The burden of proving that the relief should be awarded rests entirely on the movant. Goff v. Harper, 60 F.3d 518, 520 (8th Cir. 1995). Mr. Ventimiglia cites Federal Rule of Civil Procedure 59(e) in support of his motion for rehearing, but that rule does not apply to a denial of a motion for temporary restraining order. No judgment has been entered in this case. Ventimiglia has presented nothing in these motions that convince me my prior decision was in error, the motion for rehearing will be denied. The motion for default judgment will be summarily denied as meritless. Judge David Vincent, III, Jerry Lee, and Gary Krautman are not parties to this action and cannot be held in default for failing to appear for the hearing on plaintiffs' motion for temporary restraining order. Finally, Mr. Ventimiglia seeks my disqualification from this case. He claims that I am biased because: I ruled against plaintiffs on their motion for temporary restraining order; I did not issue a written opinion denying the motion for temporary restraining order; I did not rule on his request for preliminary injunctive or declarative relief; and, I am a woman. A judge should recuse herself if her "impartiality might reasonably be questioned." 28 U.S.C. § 455. Recusal is required when an average person knowing all the relevant facts of a case might reasonably question a judge's impartiality. Dossett v. First State Bank, 399 F.3d 940, 952 -953 (8th Cir. 2005); Moran v. Clarke, 296 F.3d 638, 648 (8th Cir. 2002). As I explained during the hearing, the factors for determining if a temporary restraining order should be issued are "(1)

the threat of irreparable harm to the movant; (2) the state of balance between this harm and the injury that granting the injunction will inflict on other parties (en banc). The crux of Mr. Ventimiglia's claim is that my ruling on plaintiffs' motion for temporary restraining order demonstrates partiality or bias in favor of defendants and the non-parties named in the motion. "Adverse judicial rulings, however, 'almost never' constitute a valid basis for recusal; the proper recourse for a dissatisfied litigant is appeal." Dossett, 399 F.3d at 953 (quoting Liteky v. United States, 510 U.S. 540, 555 (1994)). Mr. Ventimiglia is not entitled to a new judge simply because he dislikes my rulings, nor must I recuse myself merely because I did not issue my ruling in the form he might prefer. I stated my reasons for denying the motion on the record in open court. Mr. Ventimiglia was present for the hearing and heard my ruling. I am not required to issue a written opinion denying the motion for temporary restraining order. As for Mr. Ventimiglia's other complaints, I did not rule on the motions for preliminary injunctive and declaratory relief because they were not properly before me. These motions cannot be heard on an emergency basis, unlike the motion for temporary restraining order. Plaintiffs' motions for preliminary injunctive and declaratory relief remain pending and will be set for hearing, if appropriate, following my ruling on the pending motions to dismiss. Finally, Mr. Ventimiglia's claim that he is an "invidious discriminatory animus class, of a pro se litigant, and convicted felon of many years ago . . . and the lead judge is a female, and Mr. Ventimiglia is a male" does not present a basis to grant his motion for recusal.

Accordingly, **IT IS HEREBY ORDERED** that plaintiff's motion for rehearing [#84], motion for default judgment [#85], and motion to disqualify judge [#86] are denied.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 10th day of December, 2008.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA, et al.,	)	**ORDERED;**
	)	**11-24- 2008**
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No.
	)	4:08cv1199CDP
	)	
ST. LOUIS C.O.G., et al.,	)	
	)	
Defendants.	)	

ORDER

IT IS HEREBY ORDERED that plaintiffs' motion for a temporary restraining order is set for hearing on **Tuesday, November 25, 2008 at 8:00 a.m.** in Courtroom 14-South.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 24th day of November, 2008.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

COURTROOM MINUTE SHEET ORDERED
CIVIL PROCEEDINGS 11/25/2008

Date 11/25/08 **Judge** Catherine D. Perry **Case No.** 4:08CV1199 CDP

Vince Ventimiglia **vs.** St. Louis Cog, Inc., et al

Court Reporter T. Hopwood **Deputy Clerk** K. Hisaw

Attorney(s) for Plaintiff(s)

Vince Ventimiglia (Pro Se)

Attorney(s) for Defendant(s) Jennine Adamek Moore, Christopher Quinn

Parties present for Motion Hearing re [64] Motion for Temporary Restraining Order; arguments made 9 The Court orders that this proceeding is sealed and that any transcript prepared from this proceeding be filed under seal. It is hereby ordered that Motion for Temporary Restraining Order [64] is DENIED.

Pltf. Witness Deft. Witness

Pltf. Witness Deft. Witness

Pltf. Exhibits:

Pltf. Exhibits:

Deft. Exhibits:

Deft. Exhibits:

9 Exhibits returned to and retained by counsel

Proceedings commenced 8:05 a.m. Concluded 8:55 a.m.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA, et al.,	)	
	)	**ORDERED:**
	)	**10-30- 2008**
Plaintiffs,	)	
	)	
vs.	)	Case No.
	)	4:08CV1199CDP
	)	
ST. LOUIS C.O.G., INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

This matter is before me on plaintiffs' motion for an extension of time. Plaintiffs are concerned that this Court may dismiss plaintiffs' complaint against three unserved defendants when this Court rules on all pending motions to dismiss. Plaintiffs should comply with my prior Order, which requires them to respond to all motions to dismiss that are pending as of November 3, 2008 by November 24, 2008. To the extent that these defendants remain unserved or do not file motions to dismiss by November 3, 2008, then my prior Order does not apply to them.1 If plaintiffs need additional time to

[1]However, to the extent the pending 1 motions to dismiss raise legal arguments that apply equally to all defendants (even those that remain unserved), then plaintiffs should address those arguments as if they apply to all defendants because the Court could find the complaint should be dismissed in its entirety even against those defendants who remain unserved.

file a response to any motions that may be filed by these unserved defendants, then they should file an appropriate motion at that time. However, I will not delay these proceedings any further by waiting for these defendants to be served before requiring plaintiffs to file their response to the pending Motions to dismiss. At this time, I will deny plaintiffs' request that I order the United States Marshals Service to expedite service on the unserved defendants. The file shows that a marshal attempted to serve Norman McFall at the address provided by plaintiffs, but that the summons was returned unexecuted because Mr. McFall can no longer be found at that address. It remains plaintiffs' responsibility to serve defendants, including defendant McFall. If plaintiffs obtain a valid address for service of process upon defendant McFall, then they may again seek leave to serve McFall under Federal Rule of Civil Procedure 4(c)(3). However, plaintiffs remain responsible for all costs of service, including attempted service on defendant McFall, whether through the United States Marshals Service or through another method. If plaintiffs need an extension of time to obtain service on defendant McFall, they should file a motion. Finally, defendant St. Louis Cog, Inc. has filed its corporate interestsdisclosure certificate, so plaintiffs' request that they do so is moot.

Accordingly, **IT IS HEREBY ORDERED** that plaintiffs' motion for an extension of time [#53] is denied.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 30th day of October, 2008.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA,	)	
	)	ORDERED
Plaintiff,	)	OCT. 8, 2008
	)	
	)	
vs.	)	Case No.
	)	4:08CV1199 CDP
	)	
ST. LOUIS C.O.G., INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

This matter is before me on plaintiffs' motion for an extension of time to respond to the pending motions to dismiss. Plaintiffs seek leave to file one opposition to all pending motions to dismiss. I agree that the interests of judicial economy are best served by allowing plaintiffs to file a consolidated opposition to the pending motions to dismiss, and I will grant plaintiffs an extension of time to do so. Plaintiffs must respond to all motions to dismiss that are pending as of November 3, 2008 by November 24, 2008. In addition to addressing the motions to dismiss, plaintiffs' opposition shall also explain whether the proposed second amended complaint cures any factual or legal deficiencies raised by defendants in the motions to dismiss and whether amendment would be futile since plaintiffs cannot maintain a civil cause of action under the criminal statutes cited in the motion for leave to file a second

amended complaint. Plaintiffs' "Notice for Motion Hearing Day," which the Court construes as a motion for an October 15, 2008 hearing on plaintiffs' motion for leave to file a second amended complaint, will be denied at this time. However, the Court may set a hearing on some or all pending motions after they are fully briefed. Finally, plaintiff Vincent Ventimiglia cannot represent plaintiff Debbie Ventimiglia because he is not an attorney, so all future pro se filings submitted on behalf of plaintiffs must bear the signature of Debbie Ventimiglia in addition to Vincent Ventimiglia's signature.

Accordingly, **IT IS HEREBY ORDERED** that plaintiffs' motion for an extension of time [#44] is granted, and **plaintiffs are granted leave to file a consolidated opposition to all motions to dismiss that are pending as of November 3, 2008 by November 24, 2008. IT IS FURTHER ORDERED** that plaintiffs' Notice for Motion Hearing Day [#49] is denied.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 8th day of October, 2008.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA,	)	
	)	ORDERED
Plaintiff,	)	SEPT. 29, 2009
	)	
vs.	)	Case No.
	)	4:08CV1199 CDP
	)	
ST. LOUIS C.O.G., INC., et al.,	)	
	)	
Defendants.	)	

ORDER

IT IS HEREBY ORDERED that defendant Terry Jones's motion to dismiss the original complaint [#25] is denied as moot since plaintiffs have filed an amended complaint. **IT IS FURTHER ORDERED** that plaintiffs' motions to strike [#24, #28] are denied as moot.
IT IS FURTHER ORDERED that the motion for an extension of time [#36] is granted.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 29th day of September, 2008.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA,	)	Ordered
	)	Sept. 17,2008
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	4:08CV1199 CDP
ST. LOUIS C.O.G., INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

This matter is before me on a variety of motions filed by plaintiff. Plaintiff moves to amend his complaint. This case is recently filed, and most of the defendants have not yet been served. Because leave to amend shall be freely granted, I will grant the motion to amend in the interests of justice. Plaintiff also moves to reconsider my September 10, 2008 denying his motions for appointment of next friend. Because the amended complaint names plaintiff's minor children as parties, the motion for reconsideration will be granted and the motions for Appointment of next friend will be granted. Finally, because an amended complaint has now been filed, defendant C.O.G.'s motion to dismiss the original complaint will be denied as moot.

Accordingly, **IT IS HEREBY ORDERED** that plaintiff's motion for leave to file an amended complaint [#15] is granted, and the amended complaint [#16] is deemed filed on this date. **IT IS FURTHER ORDERED** that plaintiff's motion to replace [#22]

four pages of the amended complaint to correct typographical errors is granted, and the four supplemental pages are substituted for the four original pages contained in the amended complaint and are considered part of the amended complaint.
IT IS FURTHER ORDERED that plaintiff's motion for reconsideration [#17] is granted, and the motions for appointment of next friend [#8-9] are granted.
IT IS FURTHER ORDERED that defendant's motion to dismiss [#12] is denied as moot.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 17th day of September, 2008.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

VINCENT VENTIMIGLIA,	)	
	)	Order,
Plaintiff,	)	Sept., 10, 2008
	)	
vs.	)	Case No.
	)	4:08CV1199 CDP
	)	
ST. LOUIS C.O.G., INC., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER

This matter is before me on a variety of motions filed by plaintiff. Plaintiff requests that the United States Marshal Service serve defendants Carl Whitaker, Norman McFall, and David Hakes under Federal Rule of Civil Procedure 4(c)(3).I will grant this motion, but plaintiff is responsible for providing all information necessary to effect service, including the addresses of the defendants. I will deny plaintiff's request to serve defendant McFall's attorney on behalf of McFall, as well as plaintiff's request to require Mr. McFall's attorney to provide his address. Plaintiff's motions for appointment of next friend are denied because plaintiff's minor children are not parties to this action.

Accordingly, **IT IS HEREBY ORDERED** that plaintiff's motion for service [#3] **is granted only in part as specifically stated above**, and the United States Marshals Service is ordered to serve process

on defendants Carl Whitaker, Norman McFall, and David Hakes. In all other respects, the motion is denied. **IT IS FURTHER ORDERED** that plaintiff's motions and requests for appointment of next friend [#4, 5, 8-9] are denied.

/S/ Catherine D. Perry
CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 10th day of September, 2008.

1 Even though plaintiff refers to "plaintiffs" in the motions before the Court, Mr.Ventimiglia is the only plaintiff named in the complaint.

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

ORDERED
JULY 29, 2009

No: 09-1222 Vincent Michael Ventimiglia, I, as Next Friend of N.V. and J.V., et al.,
Appellants

v.

St. Louis Cog, Inc., a Missouri non-for-profit corporation, doing business as Twin Rivers Worship Center, et al.,
Appellees

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis (4:08-cv-01199-CDP)

ORDER

Appellant's renewed motion to give facts, findings, and conclusions of laws and to recall the mandate pending petition to the United States Supreme Court has been considered by the court and is denied. July 29, 2009

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

JUDGES; ROGER L. WOLLMAN; DAVID R. HANSON; LAVENSKI R. SMITH

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No: 09-1222 ***ORDERED July 21, 2009***

Vincent Michael Ventimiglia,
as Next Friend of N.V. and J.V., et al.,
Appellants

v.

St. Louis Cog, Inc., a Missouri non-for-profit corporation, doing business as Twin Rivers Worship Center, et al.,
Appellees

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis (4:08-cv-01199-CDP)

ORDER

The motion to stay the mandate filed by Appellant Ventimiglia has been construed by the court as a motion to recall the mandate and is denied.
July 21, 2009
Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans
Case: 09-1222 Page: 1 Date Filed: 07/21/2009 Entry ID: 3568098

JUDGES; ROGER L. WOLLMAN; DAVID R. HANSON; LAVENSKI R. SMITH

EXCERPT FROM PETITIONER'S BRIEF

Judge Perry denied the successive motions to disqualify her and issued an order dismissing the case, (D.S. 103). Judge Perry also denied a motion for partial summary judgment on judge Whittington, for the illegal administration order, (D.S. 110), which was denied, with no facts, findings, or conclusions of laws, (D.S. 112). Leaving the illegal order pending.

Appellants filed timely motions for findings of fact, conclusions of law. (D.S. 115), and to again, disqualify judge Perry, which was denied, (D.S. 114).

A timely notice of appeal was filed, (DD.S. 119), and briefing schedule was set, (D.S. 123).

A. ADDITIONAL FACTS SUPPORTING APPELLANTS LAWSUIT

THE FACTS INCLUDED IN THIS SECTION ARE RECORDED IN APPELLANTS, ORIGINAL COMPLAINT, (OC), FIRST AMENDED COMPLAINT, (FAC), SECOND AMENDED COMPLAINT, (SAC) RESPONSES TO DEFENDANTS MOTIONS TO DISMISS, (RDMD), TEMPORARY RESTRAINING ORDER, (TRO), PRELIMINARY, AND PERMANENT INJUNCTION, (PPI),WITH MEMORANDUM OF LAW, MOTION TO DISQUALIFY JUDGE PERRY, (MDJP), AND MOTION FOR REHEARING IN ACCORDANCE TO RULE 59(E), (59E), RESPECTIVELY, IN CHRONOLOGICAL ORDER; APPELLANTS DO INCORPORATE AND RESTATE THE ENTIRETY OF THE ABOVE PLEADINGS INTO THIS APPEAL, TO WIT;

References of pages indicate the, immediate topic heading, discussed.

I. APPELLANTS' FACTS FROM, OC;

A. Defendants were; St. Louis, C.O.G, Inc., T. Bryan Cutshall, David J. Haynes, Carl Whitaker, Norman McFall, and Terry Jones.

B. Appellants claims were Title 42, Chapter 21, §§ 1983, 1985;

1. Defendants, St. Louis, C.O.G., Inc., T. Bryan Cutshall, David J. Hakes, Carl Whitaker, Norman McFall, Terry Jones, did under the color of law institute a baseless and frivolous suit, in the form of a Temporary Restraining Order, Preliminary Injunction and Permanent Injunction in the 21st Judicial Circuit, in Clayton, Mo., on Sept. 26, 2006, in a successful attempt with illegal, malicious, and reckless actions caused irreparable harm to Mr. Ventimiglia by forcing the Court to restrain Mr. Ventimiglia for over 12 months. p. 3.OC.

2. The case in Div.18, wherein the malicious prosecution occurred, was eventually dismissed by defendants, when they were forced to abandon their suit due the fact that Mr. Ventimiglia hired an expert witness to prove a DVD entered into evidence by defendants was altered and edited. And through numerous discoveries, defendants were proven to not have any evidence to prove their case. There were twelve witnesses subpoenaed for appellants to come to trial and testify that defendants were all falsely prosecuting Mr. Ventimiglia, and the defendants withdrew their case against Mr. Ventimiglia, and cover themselves with an excuse they voluntarily withdrew their case, with an agreement from Mr. Ventimiglia, which is totally false, and the falsity is supported, heavily, by the record. p. 3, OC

3. Judge Bresnahan, Div. 18, after Mr.

Ventimiglia filed a Motion to Clarify the Dismissal, stipulated "favor" for Mr. Ventimiglia, and "against," all defendants, giving Mr. Ventimiglia money, from the court's bond money posted, and defendants paid for some expenses of appellants. This undoubtedly gave Mr. Ventimiglia prevailing party status. The judgment was never attacked by the defendants. p. 3, OC

4. Defendants, Norman McFall and Terry Jones filed a false affidavit, to instigate the malicious prosecution, which was proven false, during the discovery, in Div. 18. P.p. 3-4, OC

5. All of the incorporators, superiors, and supervisors, did nothing to stop the reckless actions of defendants, appellees. p. 4, OC

6. Terry Jones, attorney, did withhold exculpatory evidence for 12 months that would have proven Mr. Ventimiglia's case, and Mr. Jones and his clients malicious appetites. p. 4, OC

7. Pastor Cutshall did, for no apparent reason, attack, and have attacked, Mr. Ventimiglia, and minor, sons in a church service and have scores of people scream at them, in a degrading and humiliating manor, and have them thrown out of the church. Causing severe emotional distress to appellants, especially the children. Some outrageous, so called, Christian pastor. Appellants left the presence of the attack, and the attackers, peaceably. p.5, OC

8. And then defendants falsely prosecuted Mr. Ventimiglia, with no reason, other than to further humiliate and harm an innocent man, violating Mr. Ventimiglia's first amendment, causing irreparable harm to Mr. Ventimiglia. p. 6, OC

9. Defendants conspired against Mr. Ventimiglia and carried out the malicious prosecution against

Mr. Ventimiglia. Pastor Cutshall confided in Mr. Ventimiglia and said, " Terry Jones, just put the stuff in the affidavit of Norman McFall," meaning they knew it was false, and Terry Jones knew what the evidence needed for their venture, and attorney, Terry Jones just " whipped it up." p. 6, OC

10. Defendants caused negligent injury to Mr. Ventimiglia individually and collectively, and during the course of the malicious prosecution, Mr. Ventimiglia incurred thousands of dollars in costs, due to defendants illegal pursuit in the courts, under the color of law, against Mr. Ventimiglia. p. 7, OC

II. APPELLANTS FACTS FROM FAC, AND SAC;
Added Defendants;
JUDGE CAROLYN WHITTINGTON, *Presiding Judge, 21st Judicial Circuit,* **JUDGE MICHAEL T. JAMISON,** *Division 10, 21st Judicial Circuit,* **JUDGE JOHN KINTZ,** *Division 5, 21st Judicial Circuit,* **DANIEL TOBBEN,** *Attorney,* **JENNINE ADAMEK-MOORE,** *Attorney,* **ST. LOUIS COUNTY, MARJORIE HIXSON,** *Bailiff, Division 5,* **RAYMONE REED,** *Court Security Deputy.*

Appellants added seven additional claims, also;

1. Petition In Accordance With U.S.C., Title 18, Sections, 241, 242, and for Injunctive, and Declaratory Actions, per, 28 U.S.C., 2202, and 2201; and,
2. Civil Tort Lawsuit For Equity, and Redress In Accordance with U.S.C., Title 42, Chapter 21, § 1983, 1985;
3. Restatement (Second) Of Torts § 46(2)(A) (1965); Negligent Emotional Distress;

4. Gross Negligence Supervision, Training, and Retention;
5. Respondeat Superior, and Vicarious Liability; and,
6. Conspiracy to Defraud the United States; TITLE 18 > PART I > CHAPTER 19 >§ 371.

7. Principals; TITLE 18 > PART I > CHAPTER 1 > § 2.

With eight additional defendants, all state actors, with under the color of law claims; and;

11. The attorneys and the judges committed *Negligent Malfeasance*, in their actions against plaintiffs, by their schemes to deny Mr. Ventimiglia proper access to the courts, and justice, including the Constitutional Rights, Freedoms, Fairness, and Liberties, the defendants have in fact, carried out their plans and deprived plaintiffs of these Freedoms, Liberties, Rights, and Fairness, including proper Redress, by trying to delete plaintiffs complete pleadings out of the hearing and the order, denying plaintiffs' due process and equal protection of the law, in an effort to destroy plaintiff's case. *Id.* P.p. 6-7, SAC
12. The hearing in div. 10, was not recorded, in accordance with R.S.Mo. 485.050 and Mr. Ventimiglia did not, and would not sign that order, because of the way the attorneys and the judge were trying to conceal plaintiffs' record, from the Ct. of Appeals. Plaintiff filed a Motion to Strike the Order of May 2 '08. Judge Jamison disqualified himself, after he granted first amended complaint and next of

friend to the two minors. p.7, SAC

13. Judge Kintz and attorneys, Daniel Tobben, and Jennine Adamek-Moore, have continued the conspiracy in perverting, misrepresenting, frauding, and subverting the judicial process, in their pleadings and in the court room against plaintiffs, in Division 5, of the 21st Judicial Circuit, in a Discriminatory, with resentment and animosity towards plaintiffs, as outlined in this underlying complaint, and subsequently Judge Kintz, Daniel Tobben, and Jennine Adamek-Moore, by continually, aligning themselves with the other defendants in this suit, have taken the aggression against Mr. Ventimiglia to a heightened standard, and have become grossly negligent co-conspirators together, working in bad faith, contributing to the egregious behavior of all defendants, collectively, jointly, severally, individually, and/or negligently, violating Mr. Ventimiglia's Liberties, Freedoms, and Rights, guaranteed by the Constitution, of Due Process and Equal Protection of the Law; which gives rise to this Second Amended Complaint, with other adequate changes, in this Second Amended Complaint according to the F.R.C. P., Rule 15, 19, and 20. See: **Exhibits, I, J; Petition for Contempt and Memorandum**. *Id.* p. 8, SAC

14. Appellants asked the Court to exercise pendant state claim jurisdiction. p. 8, SAC

15. Plaintiffs are suing all defendants, who were acting in concert together, individually, conspiring together, acting severally, acting in joint activity, and collectively, or officially, in their *individual* and *official capacities* for damages to plaintiffs, individually, severally, together, jointly, and collectively, as they, by committing crimes, commit-ting unethical behavior, and as they have come together, in Hub

and Spoke Conspiracy, and/or, Chain Conspiracy, and Negligent Non-Feasance, Malfeasance, Gross Misconduct, and Egregious Misconduct, denying their " Ministerial Duties " and planned and executed the plans, to harm and damage plaintiffs, via, the courts, their pleadings, the hearings, and verbal exchanges, with unethical, and criminal behavior, violating laws of the State of Missouri and the United States of America. *Id.* p.9, FAC

16. Plaintiffs are suing for Declaratory and Injunctive Measures, Personal Damages, and Monetary Damages, Punitive, Declaratory, Actual, Compensatory, Estimated, and Treble Damages, with Due Course of Redress, for Relief in accordance with Counts I. through X., below; *Id.* p.9, SAC

17. Mr. Ventimiglia maintains he has been discriminated against by all defendants Due to his Invidious Discriminatory Animus class of being a prior convicted felon of many years ago. Defendants have used this information, which is irrelevant to these proceedings and have discriminated, damaged and harmed Mr. Ventimiglia, and his family, Mrs. Debbie Ventimiglia, N.V, and J.V., who are minor children, with reckless disregard and malice and tried to spread the information, and misinformation, by means of ill placed documents and misplaced and misrepresented pleadings, in which the courts refused to remove after requests by Mr. Ventimiglia, via motions and complaints, even sanction motions against Terry Jones in Div. 18. *Id.* p.11, SAC

18. By this additional Invidious Discriminatory Animus Class of " pro se " it is quite clear that the experts, professionals, and very clever and artful defendants, have come together in an effort to defeat Mr. Ventimiglia and the other plaintiffs, by any

means possible to thwart the unheard of attempt of a pro se. *Id.* p.11-12, SAC

19. "St. Louis, C.O.G., Inc., T.Bryan Cutshall, David J.Hakes, Carl Whitaker, Norman McFall, and Terry Jones, made agreements together and did, under the " color of law " in the 21st Judicial Circuit of St. Louis County conspire, willfully, with premeditation, execute a baseless, frivolous, and malicious suit against plaintiff, Mr.Ventimiglia, who is a citizen of the United States, and resides in the State of Missouri, with his family, of two children and a wife, who are also plaintiffs in this suit. The suit ended up in Judge Bresnahan's court, Division 18, and Judge Bresnahan conspired with these defendants to deny plaintiff Constitutional freedoms. These defendants, including St. Louis County, subjected Mr. Ventimiglia to deprivation of rights, privileges, and immunities by the defendants intentional hindering, obstructing justice, and defeating the course of justice, by causing Mr. Ventimiglia loss of U. S. Constitutional Privileges, Rights and Immunities."

20. "Then, in a continuation, Judge Jamison, Judge Kintz, Judge Whittington, Daniel Tobben, attorney, and Jennine Adamek-Moore, attorney, *with their clients, herein*, as their minds met, via, meetings, the pleadings of attorneys to the judge, and verbally in the court room, did pick up the continuation of the conspiracy in from Division 18 into Division 5, 7, and 10, and continued to deny Mr. Ventimiglia, Debbie Ventimiglia, Nick Ventimiglia, a minor, and Joe Ventimiglia, a minor, Due Process, and Equal Protection of the Law by unethical means, and in bad faith. Some judges may have had subject matter jurisdiction, Judge Kintz, did not have subject matter jurisdiction to dismiss plaintiffs

case, on June 11, 2008, after Judge Jamison granted First Amended Petition by Interlination, and the First Amended Complaint was filed, on April 30, 2008. Not only did judge Kintz not have subject matter jurisdiction to dismiss plaintiffs' suit in this argument, but judge Kintz also granted a Request Leave for plaintiffs for a First Amended Complaint, which was filed, immediately, on May 9, 2008, leaving judge Kintz without jurisdiction to dismiss plaintiffs suit with prejudice, especially since there was no challenge to plaintiff's pleadings, because all of defendants pleadings being MOOTED, and there was NO additional pleadings to plaintiff's First Amended Complaint. Judge Kintz' behavior was actuated with malice, and reckless disregard. Mr. Ventimiglia reminded judge Kintz, but to no avail. SEE; Exhibit A. (*again, plaintiffs are not questioning the ruling, judgment, or dismissal of the suit in this court. It is judge Kintz' conduct, actions, behavior, and motives, that are being addressed. The case, in question is before the Court of Appeals, E.D #[1]ED 91597).* As outlined herein this underlying suit, paragraphs 1 through 20, and 1 through 16, and all paragraphs below; Plaintiff does incorporate into this section, the entire suit; Also, plaintiffs do state

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[1] See; appendices C, and D, (court opinion, and motion for rehearing), wherein the Ct. of Appeals totally misrepresented appellants very relevant appeal and refused to report the opinion to conceal the outrageous prejudice. The Ct. even went so far as to come up with a sua sponte excuse for the judges illegal dismissal and foul play, in court procedure, and appellants are not prisoners, but are being treated worse than prisoners, and have no rights, in the state courts. The Ct. of Appeals is advocating for the appellees, in that court as well as judge Perry did.

that all of plaintiffs efforts in all of the proceedings, starting in division 18, was an effort to receive due process of law, equal protection of the law, the right to have access and proper redress in the courts of St. Louis County, in and through it's agents." A. "THEREFORE, these named defendants, *other than the judges who may have had jurisdiction*, are guilty of violating U.S.C. Title 42, Chapter 21, §§ 1983, and 1985(2)(3), with Conspiracy, as outlined above, and the defendants are liable to Plaintiff, Mr. Ventimiglia for damages as the law and equity allows. *Id.* P.p. 13-15, SAC

21. St.Louis, C.O.G. Inc., T.Bryan Cutshall, Carl Whitaker, David J. Hakes, Norman McFall, Terry Jones, Judge Jamison, Judge Kintz, Judge Whittington, Daniel Tobben, and Jennine Adamek-Moore, did together, jointly, individually, , and/or in a concerted bad faith effort, create a conspiracy and did willfully act in a manor that injured, oppressed, and intimidated Mr. Ventimiglia, plaintiff, and have prevented plaintiff of free exercises of due process, equal protection, right to access the court for redress in a neutral court, has been held captive by restraint of the state in an illegal and harmful way. All of these harms were done under the color of law, with State Officials involved, in violation of plaintiffs' Constitutional Rights, Freedoms, Privileges, and Immunities, and caused plaintiffs enjoyment of these privileges to be severely damaged. *Id.* p. 16, SAC

These appellees denied appellants of Article One, Section Fourteen, of the Missouri Constitution by denying them to meaningful access to the Missouri Courts for proper redress for damages sustained in malicious prosecution, against them, by the appellees.

22. See: pages, 17-21, SAC,
Count Ten: Conspiracy of Defendants
Title 18; Part I; Chapter 19; § 371

23. There is no doubt by the appellees' continuation, from court to court, of the disregard to any procedural due process, or respect for M.R.C.P., Mo.S.Ct. Rules, nor, case law, presented to the courts, that caused appellants, to suffer damages, by denying appellants to meaningful due process, in an egregious manor from the courts, and the attorneys, in conspiracy together, in the state courts, to defeat the appellants in any fashion, using their combined skills and years of experience together, in a very artful and clever maneuver to strip appellants of Missouri and U.S. Constitutional privileges, immunities, freedoms, and rights, and caused very relevant, and meaningful pleading of defendants to be flatly denied, destroying a perfectly sound and vibrant case. It is not hard to see, once you connect the dots, properly. This Court knows the laws and rules very well, they are experts, underscoring to M.S.Ct. Rules, the judges are trained and should identify any corrupt actions, of any court agent, and act in accordance to the rules, to purge the recreant behavior, which was not done, but magnified, by the judges, taking part, and continuing, the unethical misconduct against appellants, in the state courts. Plaintiffs pleadings, presented herein, will again, unveil the real facts, claims, and issues to be decided by this Court. See: pages, 17-21, SAC.

24. Every court refused to allow a hearing that was recorded, with the exception of the July 10, 2008, rehearing in division 5, with judge Kintz, but that hearing was so one sided, the judge would not allow appellants to present their case, once again,

but rather used the defense attorneys fabricated facts and theories to continue to dismiss with prejudice, when appellants had over 12 genuine issues of material facts in dispute, with witnesses, affidavits, and other evidence to prove their case.

A. The court gave Mr. Ventimiglia some objection time, and gave the other attorneys as much, and as many times to present issues, and arguments, but ran off the bench when it was time for appellants to present their pleadings that were called up for hearing that day, leaving appellants complaining about the continued misconduct of the court and it's agents, as the transcript, clearly shows. The court deliberately ignored appellants in a very rude manor to deny them any meaningful access to be heard. This is a direct violation of Missouri, and U.S. Constitutional privileges, being denied to appellants, giving the federal court jurisdiction, according to, *Harbury*. Appellants have no remedy, due to the outrageous conspiracy against appellants in the state courts. The state courts act as if appellants, and their claims, don't exist, and slam every door in their faces, negating any fairness, or laws, that are guaranteed to appellants, for meaningful access to the courts for proper redress for damages they received.

25. In the hearing on July 10, 2008, in judge Kintz' court, the judge did rule in the court dismissing the case with prejudice, again as it did on June 11, 2008, but there were other issues that the court did not rule on, such as a declaratory judgment, but then the attorneys for the defense went into the judges chambers, immediately, and did together with the judge rewrite the order, including dismissing the declaratory judgment, while the

bailiff, (Marjorie Hixson, new defendant), and the court security, (Raymone Reed, new defendant), held appellants under threat and guard, to be quiet and sit down, and no, they would not let them participate in any orders of the court. THE COURT HAD NO JURISDICTION TO DISMISS. This literally held appellants in a hostage situation to deny them Constitutional freedoms, rights, and privileges, under the color of law. If this happened in *Gitmo*, there would be an outcry. Where is the outcry for the Ventimiglia, family? The Ct. of Appeals has continued the same treatment. The Courts advocate for defendants, who are judges, attorneys, and private parties conspiring with the state actors, against the Ventimiglia family.

26. All of the defendants, herein, are guilty of conspiring, acting in concert, individually, collectively, severally, or together, to deny plaintiff Mr. Ventimiglia, under the color of law, Due Process of the Law and Equal Protection of the Law, and the benefits, freedoms, rights, privileges, immunities, and enjoyments of this 14th Amendment, violating United States Constitution, (which by reference, on it's face, commits an offense to defraud the United States), by falsely prosecuting Mr. Ventimiglia with a frivolous and baseless suit, for over one year, in a Conspiracy, and causing him to be unlawfully held in restraint, causing irreparable harm to Mr. Ventimiglia. Plaintiffs incorporate into this argument, the entire suit, with all of the allegations, violations and crimes of defendants, against plaintiffs. The attorneys, herein would be advancing their fraud, incompetence, conspiracy, misconduct, gross negligence, dishonesty, Misrepresentations, in the performance of their functions or duties of any professionals

licensed or regulated under the Missouri Supreme Court and State Statutory Regulations, Therefore, breaching any and all professional commitments and agreements with these entities, for the procurement of money from their clients. Plaintiffs do incorporate this section into any and all of the allegations in this underlying suit. *Id.* P.p. 21-22, SAC

27. Defendants listed above, are together, collectively, individually, severally, concertedly, guilty of conspiring to act in a way that denied plaintiff, Mr. Ventimiglia of the Rights, Privileges, Immunities, and Freedoms, and did together in a conspiratory manor depriving Mr. Ventimiglia, of the benefits of this 1st Amendment to the Bill of Rights, committing an offense against the United States, and it's Constitution, by hindering and denying plaintiffs redress in the court system, freedom of speech, and, denying plaintiffs the right to Peacefully Assemble, and are guilty of these offenses and are liable to plaintiffs, for Damages, and Redress, in accordance with Counts I. through X and U.S.C. Title 28, Sections 2201, and 2202, 18 U.S.C. 1983, 1985, and 241, 242. Plaintiffs incorporate into this section, the entire underlying, suit. *Id.* P.p. 22-23,SAC

28. Defendants, listed above, did conspire, act in concert, or individually, severally, collectively, and jointly to deprive Mr. Ventimiglia, and plaintiffs, of the benefits and liberties and due process of law, and equal protection of the law, as outlined in this underlying suit causing damages to plaintiffs in accordance with the 5th Amendment to the Bill of Rights, and other laws outlined in this suit and are held accountable to this court in accordance with U.S.C. Title 42, §§ 1983, 1985, or/and, Title 18,

Sections 241, 242, and, Title 28, 2202, and 2201, and Title 18, Chapters 1, and 19, §§ 2, and 371, collectively, or/and individually. Therefore committing an offense against the United States violating federal laws, and demanding Federal Questions in these violations against plaintiffs. Behaving with unethical, gross negligence, lacking moral turpitude, and outrageous misconduct, with egregious actions against plaintiffs. Plaintiffs do incorporate into this section, the entire underlying, suit. *Id.* P.p. 23, SAC 28. Defendants, listed above, did conspire, or act individually, collectively, severally, and jointly, to deny, and/or delay, Mr. Ventimiglia, and plaintiffs, the remedies, rights, and justice and administration benefits of the Missouri Constitution, Article One, Bill of Rights, Section 14, and the above named defendants are liable to Mr.Ventimiglia, and plaintiffs, for damages in accordance to the laws cited herein, to make the wrongs, righted, and monetary damages in furtherance of relief and remedies.

Plaintiffs do incorporate into this section, the entire underlying, suit. *Id.* p. 24, SAC 29. These Principal, judges, and St. Louis County, allowed these attorneys to rewrite plaintiffs theories in their answers, drawing their own fabricated theories, refused an Evidentiary Hearing Motion to be heard prove plaintiff's case, but did willfully and in bad faith allow the misrepresentations and dismissed plaintiff's case, unlawfully, committing an offense against the United States in that these outrageous actions were done under the color of law, in that these State elected, and/or appointed, hired, or assigned, officials, did reject the United States constitution and it's provisions for plaintiffs, causing damage and harm to plaintiffs, as

outlined in this underlying suit before this Honorable Court.. **MUST See: Exhibits; W,X,Y.** *Id.* P. 24, SAC

30. **Principal, and underling Defendants listed above, are guilty of extreme and outrageous conduct that has been directed at plaintiff, Mr. Ventimiglia, and plaintiffs, and due to the outrageous and extreme conduct, the defendants have intentionally or recklessly caused severe emotional Distress upon Mr. Ventimiglia's family, Debbie, Nick, and Joe Ventimiglia, who are plaintiffs in the suit. These plaintiffs, Debbie, Nick and Joe Ventimiglia have been present from the beginning until this time, and have barely endured the outrageous, egregious, reckless, unlawful, and evil treatment of their father and husband and have been damaged and are entitled to damages and redress from the defendants listed above for violating Restatement (Second) of Torts § 46(2)(a)(1965); and these plaintiffs ask for this court to issue Injunctive and Declaratory Judgments against defendants in accordance with U.S.C. Title 28, Sections 2202, 2201. Plaintiffs do incorporate into this section, the entire underlying, suit.** *Id.* P. 25, SAC

31. "[2]**Defendants ST. Louis C.O.G. Inc., T.Bryan Cutshall, David J. Haynes, Carl Whitaker, Judge Michael T. Jamison, Judge John Kintz, Judge Carolyn Whittington, and St. Louis County have,**

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[2] See; Appendix A, judge Perry dismissed suit against defendants, other than the judges, because judge Perry stated, there was no under color of law claims against all other defendants. This is plain error by judge Perry. The color of law is used repeatedly, throughout the suit, against ALL defendants as it rightly, should.

knowingly, allowed their employees, agents, underlings, and/or subordinates to behave in an incompetent manor, in bad faith, and these defendants failed in training, retention, and/or supervising their employees, agents, underlings, and/or subordinates, and by these negligent acts of defendants, outlined in this underlying suit, there have been damages incurred against plaintiffs. There have been offenses committed against the United States by disregarding the Constitutional provisions of these plaintiff, citizens of the United States, and the defendants under the color of law have illegally used a State Court to procure illegal behavior against plaintiffs in an egregious manor, doing damage and harm to plaintiffs, the courts, the United States, and to society and the community at large by their actions against a minority, and citizens of the State of Missouri and the United States of America."

"By these actions against plaintiffs by the above listed defendants, the defendants are liable to plaintiffs for damages in violating and committing Negligent Supervision, Training and Retention, violating Missouri Tort Laws, 18 USC 2, and Injunctive and Declaratory Measures from this court in accordance with U.S.C. Title 28, Sections 2201, and 2202. Plaintiffs do incorporate into this section, the entire underlying, suit, and incorporates this section into the entire suit." *Id.* P.p. 26,27, SAC 32. "Defendants, St. Louis, C.O.G. Inc., T. Bryan Cutshall, David J. Haynes, Carl Whitaker, Judge Michael T. Jamison, Judge Carolyn Whittington, and Judge John Kintz, and St. Louis County, who are Masters, Principals, or Employers, and are res-

possible for their employees, underlings, or agents, respectively, for the wrongs that the subordinates have committed against plaintiffs, because the agents, underlings, or subordinates acted through, with, through counsel, by abetting, inducing, commanding, or with the aid of their Superiors, therefore the acts of the subordinates are in legal effects, the acts of the Superiors. Namely, the above named defendants."

"And, in so doing these actions, of the employees, agents, or subordinates, the defendant, Superiors, via the subordinates actions, are liable to plaintiffs for damages, and they are subject to Injunctive and Declaratory relief and Remedies in accordance with U.S.C. Title 28 Sections 2201, and 2202, 18 USC 2, Principals, and 371, Conspiracy, and the other laws outlined in this suit, Counts I. through X. Plaintiffs do incorporate into this section, the entire underlying suit." *Id.* P.p. 27-28, SAC

33. "Defendants, St. Louis, C.O.G. Inc., T. Bryan Cutshall, David J. Haynes, Carl Whitaker, Judge Michael T. Jamison, Judge Carolyn Whittington, and Judge John Kintz, and St. Louis County, who are Masters, Principals, or Employers, and are responsible for their employees, underlings, or agents, respectively, for the wrongs that the subordinates have committed against plaintiffs, because the agents, underlings, or subordinates acted through, with, through counsel, by abetting, inducing, commanding, or with the aid of their Superiors, therefore the acts of the subordinates are in legal effects, the acts of the Superiors. Namely, the above named defendants."

"And, in so doing these actions, of the employees, agents, or subordinates, the defendant,

Superiors, via the subordinates actions, are liable to plaintiffs for damages, and they are subject to Injunctive and Declaratory relief and Remedies in accordance with **U.S.C. Title 28 Sections 2201, and 2202, 18 USC 2, Principals, and 371, Conspiracy**, and the other laws outlined in this suit, **Counts I. through X**. Plaintiffs do incorporate into this section, the entire underlying suit." *Id.* P.p. 29-30; See: p.p. 29-44, SAC, 16 pages of facts concerning these appellees .

34. **Cause of Action Against Presiding Judge Whittington in Violation of U.S.C. Title 18, Sections 241, and 242; Violating Counts I through X, above**; *with arguments, laws, and points relied upon;*

" *When unfair judicial procedures result in a denial of Due Process, reversal is required.* **Reserve Mining Co. V. Lord, 529, F. 2d, 181 (8TH Cir. 1981)** "

" *[a] judge best serves the administration of justice by remaining detached from the conflict between the parties.*" **529 F. 2d at 186. Smith v. Bacon, 699 F. 2d, 434 (8th Cir.)**, *clearly and unequivocally states that a judge is not immune from Declaratory and Injunctive Measures.*

Title 18 U.S.C. 242, the criminal analog of ? 1983, also contains a color of state law requirement and we have interpreted the color of state law requirement in these sections coextensively. **Adickes v. S.H. Kress & Co., supra, at 152,n.7**. A State judge can be found criminally liable under ? 242 although that judge may be immune from damages under ? 1983. See, **Imber v. Pachtman, 424 U.S. 409, 429 (1976); O'Shea v. Littleton, 414 U.S. 488, 503 (1974)**. In either case, the judge acted under color of state law.

Also in O'Shea, " *But judicial immunity was not designed to insulate the judiciary from all aspects of the public accountability. Judges are immune from ? 1983 damages actions, but they are subject to criminal prosecutions as are other citizens. At,* 488, and 503. *Neither are we aware of any rule generally exempting a judge from the normal obligation to respond as a witness when he has information material to a criminal or civil proceeding.* United States v. Nixon, 418 U.S. 683, 705-707 (1974). *Id.* P.p. 44-45, SAC, See: SAC, P.p.44-50, par. 1-7 for facts against judge Carolyn Whittington.

35. **Cause of Action Against Judge Michael T. Jamison, Division 10, and Judge John Kintz, Division 5**; *with Arguments, laws, and points relied upon*; See: SAC, P.p. 51-64, par. 1-25, for incorporated, and restated, facts against these defendants.

36. **Cause of Actions Against Attorneys** *Terry Jones*, **Daniel Tobben and Jennine Adamek-Moore**; *Arguments, laws, and points relied upon*; See: SAC, P.p.65-68, par. 1-8, for incorporated, and restated, facts against these defendants.

37. **Causes of Actions Against Marjorie Hixson, and Deputy Raymone Reed**, See: SAC, P.p. 69-71, par. 1-6, for incorporated, and restated, facts against these defendants.

38. "For reasons that plaintiffs did not know the names of two additional defendants, prevented plaintiffs from joining two new defendants, plus their superior, Principal, St. Louis County;"

"Plaintiffs will also Amend the Causes of Actions with two additional Causes of Action; U.S.C., TITLE 18, Part I, Chapter 19, § 371, CONSPIRACY TO COMMIT OFFENSE OF DEFRAUD UNITED

STATES, and, TITLE 18, Part I, Chapter 1, § 2, PRINCIPALS . Principals and Conspiracy is woven through the fabric of plaintiff's pleadings and it would complete, clarify, and tie loose ends of the Causes of Actions, in accordance to the pleadings, of plaintiffs;"

"Plaintiffs will also amend the petition with a sub heading, titled " Plaintiff, Mr. Ventimiglia's Invidious Discriminatory Animus Class, and Status;"

"Plaintiff will also amend the Damages for the additional relief due because of the additional parties/defendants added, herein;" *Id.* Taken from, Request Leave to File. SAC. (D.S. 39, 09/29/08).

III. FACTS FROM; PLAINTIFF'S RESPONSES TO DEFENDANTS MOTIONS TO DISMISS, (RDMD);

39. Plaintiff's case in the State Courts have been compromised and plaintiffs have been given a bridge, with a badge, to come into this Court through *Christopher vs. Harbury*, 122 S.Ct. 2179; *" have held that conspiracies to destroy or cover-up evidence of a crime that render a plaintiff's judicial remedies inadequate or ineffective violat[e] the right of access." Id. See*; CONSPIRACY, in 1ST and 2ND Amended Complaints. These state actors, and state agents, are covering up the crime of withholding exculpatory evidence of their compadre, Attorney Terry Jones, who in effect, was committing this crime and other crimes, in Div. 18, under the color of law, by and through his clients, who are all defendants in this case before this court, as the record demonstrates, and because of plaintiffs Invidious Disc-

riminatory Animus Class, *IDAC.* P.p. 6, RDMD

40. Appellants, did, very carefully, in 74 pages, outline every detail and covered all facts of defendants' claims, from the immunity defenses, state actors, Rooker-Feldman doctrine, color of law, denial of due process, and equal protection, IDAC, many genuine issues of material facts in dispute, and defeated all arguments of defendants' in their motions to dismiss, in Sections I-XV, THEREIN, AND DOES, AT THIS TIME, INCORPORATE THEM INTO THIS APPEAL, AND DOES RESTATE THE SAME, AT THIS TIME, including attachments, appendix, exhibit's A, B, C, D1, D2. (D.S.. 72)

41. And does ask this Court to review the issues, and rule accordingly, addressing each averment, and all facts supplied to this Court, by the contents of the RDMD, wherein the District Court neglected, by being prejudice against appellants, it's duty to liberally construe all the facts and apply them to appellants in a fair way, admitting them true, and deleting the issues, facts, and averments from the order, and judgment, with the memorandum, dismissing appellants' complete case.

IV. FACTS INCLUDED IN APPELLANTS'; TEMPORARY RESTRAINING ORDER, (TRO), PRELIMINARY, AND PERMA-NENT INJUNCTION, (PPI), WITH MEMORANDUM OF LAW, AND SUPPLEMENT, (D.S.87);

42. Mr. Ventimiglia filed for T.R.O., PRELIMINARY, AND PERMANENT INJUNCTION, on 11/24/2008. (D.S. 64, 65), and incorporate, and restate the same herein, Including the affidavit, exhibit's A, B,

C, appendix, and certificate of service.

43. Mr. Ventimiglia, appellant has been subjected to more [3]discrimination, abuse, humiliation, embarrassment, severe emotional distress, and, monetary damages, by the illegal, negligent actions, vindictiveness, and retaliation by judge Presiding Judge, Whittington, in another complete denial of Mr. Ventimiglia's U.S. Constitutional Rights Freedoms, Privileges, and Immunities, including denial of Missouri Constitutional rights, of meaningful access to the Missouri Courts, when judge Whittington, ion her administrative office, outside of her judicial office, under the color of law, in bad faith, did issue a contempt order against Mr. Ventimiglia in the form of an order for the police dept. to escort him whenever he is present in the court house, for no good cause.

44. This was done with out notifying Mr. Ventimiglia, and judge Whittington refused any hearing, did not allow any confrontation of Mr. Ventimiglia's accusers, or any rights to allow Mr. Ventimiglia to defend himself. Even after Mr. Ventimiglia found out about the illegal restraint, and tried to procedurally, challenge the crime against him, by judge

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[3] When the police dept refused Mr. Ventimiglia access to the Court house on 11/17/08, for official business, Mr. Ventimiglia went to the St. Louis County police Dept. to file a complaint with internal affairs, and did file the complaint, and discovered it was indeed judge Whittington who issued the restraint of Mr. Ventimiglia. Mr. Ventimiglia tried to have a hearing after the discovery, but judge Whittington denied any hearing, and continued to deny Mr. Ventimiglia any due process in this matter. And Judge Perry ignored it as well, and dismissed the entire complaint, after it was unsuccessfully attempted to amend it into the petition before judge Perry.

Whittington. The illegal restraint is still pending, in violation of M.R.C.P., MO. S.CT. RULES, FEDERAL LAWS, AND MISSOURI AND U.S. CONSTITUTIONAL PROVISIONS, cited herein these pleadings incorporated, herein.

A. Appellants did try to timely, supplement the Amended Complaint with a Supplement which included the information about the illegal administrative order, and the newly revealed illegal actions of Judge Carolyn C. Whittington, as judge Perry suggested at the TRO hearing, but when it came time to include the outrageous actions into the FAC, judge Perry refused, and dismissed the case, in which, she definitely, should not have. See: SUPPLEMENT TO FIRST AND SECOND COMPLAINT, (D.S. 87). Judge Perry was advocating for the judges, and should have disqualified herself. *28 U.S.C. 144-455*.

V. FACTS OF APPELLANTS FROM, MOTIONS TO DISQUALIFY JUDGE PERRY, (MDJP) AND MOTION FOR DEFAULT (MD)

45. Appellees do incorporate herein and restate the same herein from appellants'pleadings, docket # 84, 85, 86, 93, 95, 96, 97, 98, 99, 100, 101, 102, 105, 107; These pleadings are in the forms of, 4 affidavits, 3 Motions to Disqualify, motion for rehearing, memorandum in support, motion for default, and exhibits with, other pleadings.

46. These pleadings, unequivocally, show the prejudice, and biased behavior of judge Perry against appellants, making it impossible for appellants to receive any fairness in her court,

therefore, denying appellants due process, equal protection, and meaningful access to the courts, state and federal, for good causes. Judge Perry violated over 10, F.R.C.P. in dismissing appellants case. See: Motion to Disqualify Judge Perry.

47. "Judge Perry had ample evidence before her, proper service, including an affidavit, which is prima facia evidence, of the allegations, and staire decisis law from her District, and argued for the defendants, who refused to participate on their own. Mr. Ventimiglia is entitled to a neutral judge, who is not an advocate for the defense."

"Judge Perry did not rule on the preliminary Injunctive requests, or the declaratory judgment requests, to help the defendants." *Id.* Judge Perry was very negligent.

VI. MISREPRESENTATIONS BY JUDGE PERRY IN HER MEMORANDUM DISMISSING APPELLANTS' CASE, (MDAC),(D.S. 103), AND CORRECTIONS ACCORDING TO MOTION FOR REHEARING ACCORDING TO RULE 59(E);

48. *The Court's findings, in question, are underlined*

1. On the first page, first paragraph, of this Court's Memorandum, the misrepresentations start when this Court states, " After becoming dissatisfied with the results of their state-court proceedings, Plaintiffs brought this federal case against many of the same parties, as well as against the state judges who had ruled on their cases, the lawyers representing the opposing parties in those cases, and others.." **This is false representation by this court, and plaintiffs dispute it.** SEE: INTRODUCTION, (*PRMD*), p.#4, par. #9., below; "Plaintiffs, Vincent and Debbie

Ventimiglia, pro se, do come to this court out of a necessity to receive Due Process of Law and Equal Protection, in accordance with the 14th Amendment to the U.S. Constitution, and other Constitutional freedoms that have been destroyed by defendants in the lower Courts, and the compromising of plaintiff's case in the lower Courts is one Catalyst Theory for these causes of actions before this Court. Plaintiffs are not challenging the judgment of the lower courts;" *Id. Appellants incorporate the contents of the 59(e), and restate herein.*

"2. That there was only claims of " under the color of law " directed against three judges, when in fact the claims were against " all " of the defendants, repeatedly, this court did not read plaintiff's pleadings, or it would have seen clearly plaintiff's claims, but this court arbitrarily used defendants motions to dismiss as the only guide to make decisions, and consequently, dismissed plaintiffs case." *Id.*

"Disputed by plaintiffs and false representation by this court. SEE: (*PRMD*), P.p. #66-67, par. #11., A., below.

'11. Plaintiffs do set out the proper conditions in their complaints that show the " color of law" requirements to maintain their civil claims, in this *Response*, and the *FAC*, and *SAC*, contrary to defendant's motions to dismiss; e.g. ***FAC**, p.#10, par. #1; p. #16, par. #1; p.#25, par. #5; p. #30, par. C; p. #32, par. #13; **SAC**, p. #8, par. #10; p. #14, par. (top); p. 16, par. #1; p. #18, par. B; p. #21, par. #1; p. #32, par. #5; p. #44, par. F.*

A. With these easy references through plaintiff's Complaints, this court can see the frivolous complaints, in bad faith, that defense has used, in claiming that plaintiff's pleading are incoherent,

unreadable, etc.. Defense Attorneys are collectively, in an attempt to mislead this Court, with Unauthenticated, misrepresented, and, unethically, against M.S.Ct. Rules, and F.R.C.P., trying to fraud this Court And, defense attorneys, with their clients, given the green light by the judges, by and through their negligent actions, continue their conspiracy to deny plaintiffs due process of law and equal protection of the law. (when the attorneys refer to each others pleadings, agreeing, to the erroneous claims, in their motions to dismiss, this shows collusion, and conspiracy, on this federal level)." *Id.* (D.S. 110, 59(E)). Please read the whole Motion, and all motions incorporated, herein, with the complete record, and apply the appropriate standards of review. Appellants are relying on this Court to uphold the RULE OF LAW, herein.

JUDGE PERRY'S MEMORANDUM (D.S. 130)

A. On page 1, judge Perry uses appellees false facts to build her case. Why does judge Perry not use Plaintiff's facts? Examples;

i. Mr. Ventimiglia, with his children, NEVER, disrupted any church service, but was viciously, and outrageously attacked by scores of people, led by a hot shot, over zealous, pastor, T. Bryan Cutshall.

ii. Page 2; Twin Rivers voluntarily dismissed their case, only after they were forced to abandon the case, after over one year of misconduct, and many legal violations of appellees, including breaking statutory laws in trying to maliciously prosecute Mr. Ventimiglia, and judge Bresnahan issued a partial declaratory judgment declaring

favor and money to Mr. Ventimiglia, and against appellees;

iii. In the second [4]paragraph on page 2, judge

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[4] This case is as follows;

MOTION TO WITHDRAW APPEAL

Comes now, appellant Vincent Ventimiglia, pro se, and would move to withdraw the appeal pending in the above styled cause for the following reasons, to wit;

1. Some issues involved in this case have not completely been resolved in a proceedings in Division 18;
2. The law suit may have been pre-mature when it was filed;
3. Appellant will seek remedies in Division 18 through counterclaim remedies;
4. Judge Whittington dismissed WITHOUT prejudice, therefore not limiting appellant to future claims in this court on this action when it is matured.
5. Appellant is pro se and possibly will seek counsel to handle futurelitigation on this matter due to the Intentional Negligent Emotional Distress and other Tort violations when this case has matured. *Id.* Case no. ED89860Counterclaims were denied in div. 18, even when appellants found out that appellees were withdrawing their case, appellants wrote letters and filed pleadings to counter the withdrawal of the case by appellees, but were denied. Appellants always maintained their innocence and demanded jury trails. Appellees tried to very cleverly, disguise their abandonment of their case, by withdrawing it, but judge Bresnahan saw the sham, and ruled against the appellees, and that judgment is valid, and was never challenged by appellees.Judge Whittington erroneously dismissed the defamation suit using Hester v. Barnet, which was a misplaced judgment, and against clear stare decisis law. Appellants did not have any church hearings, and appellants were <u>never</u> members, as judge Perry also tries to make fact in her memorandum.

Perry makes it seem like Mr. Ventimiglia is suit crazed happy and just filing suits back to back, in a haphazard way, but this is another misstatement, and misrepresentation by judge Perry to build a false pretense. In actuality, Mr. Ventimiglia withdrew his law suit for defamation because the case under appeal, from judge Whittington's court was premature, and the elements were not ripe, as the case in div. 18, wherein the nucleus was being accrued, was not ripe for suit, yet. Mr. Ventimiglia planned the course of the litigation. The case in Div. 18 did not culminate until Nov 30, 2007, then Mr. Ventimiglia gave the defendants ample opportunity to make amends before any future litigation, which was only met by stiff opposition. Then Mr. Ventimiglia commenced the malicious prosecution. Which, the issues and facts, and theories are quite different than the Defamation suit that was voluntarily dismissed by appellants, and the malicious Prosecution was ripe, especially after judge Bresnahan's partial declaratory judgment in favor of appellants.

iv. On page two, Judge Perry also misrepresents the facts that the events were the same from state to federal court. Which is totally not true. As the case progressed, the illegalities increased, by additional defendants, and the suit was accruing as the case went forward, with more defendants, issues, theories violations of laws, and more new facts.

v. On page 3 on the memorandum, The Ventimiglia's claims stem from a Sept. 17, 2006 incident, and dissatisfaction with the state court proceedings. Which is not true. The case stemmed from Sept, 17, 2006, to July 10, 2008, and the state courts Criminal activities are in question, not the actual judgment. Appellants stated over and over, in their federal suit,

that the court' judgment is not an issue in the federal court. See: 59(e), (D.S. 110, with FAC, SAC)

vi. State court judges were not immune. They acted outside their judicial roles.

vii. The court never addressed appellants state or federal claims, nor admitted the facts therein, true. The District Court refused the state claims, and they were very relevant, viable, and the District Court made clear error, by not exercising pendant Jurisdiction over them.

viii. On page 5, judge Perry misstated the only state actors named in the complaint, were three judges. Not true. See: FAC p.3, par. 4, P.p. 6,7, par. 10-11, Conspiracy, P.p. 12-16, AND MANY OTHER PLACES.

ix. On page 6, judge Perry conveniently left out the part, in her footnote, that Judge Whittington's administrative order was illegal, and Mr.Ventimiglia was never noticed, or allowed to defend Himself against the illegal maneuver, but was rather to subject of a classical, harassing and intimidating adventure against Mr. Ventimiglia. Again, Judge Perry is covering for Judge Whittington. This is a very prejudicial move by judge Perry.

x. On page 7, Judge Perry advocates, improperly that the judges were performing judicial functions. When Judge Kintz, and judge Whittington knew the case was moot, they continued to advance evil against appellants, they were not in any judicial function. Judge Whittington was definitely not I any judicial function when she issued an invalid, bogus, illegal, manufactured, administrative order against Mr. Ventimiglia, trying to intimidate him from defending himself, and his family, and try to receive access in the Clayton courthouse, that prejudices pro

se litigants. These are not judicial functions. Furthermore all of the facts disputed in this case, deserves nothing less, than a jury trial.

xi. Also, on page 7, judge Perry left out the part, in the top paragraph, in where she states some infractions of the state case, but left out the most damning incident, and that was the attorneys going into the judges chambers after the July 10, 2008, hearing, when appellants were held hostage by the bailiff and the deputy of St Louis County Police Dept., to add other changes to the order, dismissing appellants' declaratory judgment, and then with audacity, supply the order with a statement, that appellees argued their motions, when the transcript is clear that appellants were shut out of the hearing, and not allowed to argue their pleadings, as has been the case, all along. Judge Perry knows the ramifications of these circumstances, and advocates for her counterpart court officials to damage appellants, further, disregarding a dozen federal rules of civil procedure. See; Motions to Disqualify Judge Perry. (D.S. 86, 93, 95, 96, 97, 98, 99, 101, 102).

xii. On pages 8-17, of her memorandum, Judge Perry misrepresents;

A. judicial immunity by covering all aspects of immunity, <u>except</u> the key that opens the door to appellants case; NO JURISDICTION, AND, ADMINISTRATIVE CAPACITY, OUTSIDE OF JUDICIAL ROLES;

B. Rooker-Feldman, there have never been any issues decided in appellants case in the state court, and furthermore, appellants never received a fair hearing to litigate. These are disputed facts and need a jury trial;

C. Invidious Discriminatory Animus Class, appellant described his IDAC, due to, pro se status, and convicted felon of many years ago. Judge Perry leaves out the pro se class, to advance her Misstatements, on this issue. She used this invalid, excuse as part of her reason to not allow the SAC.

D. Appellants are not prisoners nor indigents, but pro se, and convicted felon of 30 years ago, with a success record, in society, that falls short of no one.

E. Appellants federal claims do state a claim upon which relief can be granted.

F. Appellants' SAC should have been granted, because it had new parties, claims, facts, issues , and theories, that were relevant, viable, and for good cause, and it healed the deficiencies that judge Perry dismissed for.

G. Appellants were not judge shopping, well maybe they were, in reality, appellants were looking for a neutral judge, and besides the subjective, external wrongs with judge Perry being neutral, she should have disqualified herself because of the 10 violations of F.R.C.P. she committed in dismissing appellants' case. See: Motions to Dismiss Judge Perry.

H. Furthermore, in judge Perry's footnote on page 16, she <u>becomes a witness</u> for her court reporter, when in fact her court reporter corrupted the transcript, and judge Perry's statement is false. See: Affidavit of Josephine Schaefer. (D.S. 93)